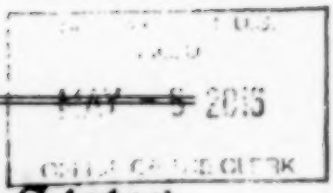
No. 15-628



In The
Supreme Court of the United States

BASSAM YACOUB SALMAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

JOINT APPENDIX

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Petition For Certiorari Filed November 10, 2015
Certiorari Granted January 19, 2016

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District Court Order Denying Defendant's Motion for New Trial (Dec. 17, 2013) ..... Pet. App. 34

District Court Order Denying Defendant's Motion for Release Pending Appeal (July 1, 2014) ..... Pet. App. 26

Court of Appeals *Newman* Decision (July 6, 2015) ..... Pet. App. 1

Court of Appeals Willful Blindness Decision (July 6, 2015) ..... Pet. App. 18

Court of Appeals Order Denying Petition for Rehearing En Banc (Aug. 13, 2015) ..... Pet. App. 53

Relevant Docket Entries
United States District Court
California Northern District (San Francisco)
CRIMINAL DOCKET FOR
CASE #: 3:11-cr-00625-EMC-1

United States v. Salman

Date Filed	#	Docket Text
09/01/2011	1	INDICTMENT as to Bassam Yacoub Salman (1) count(s) 1, 2-5. (lskS, COURT STAFF) (Filed on 9/1/2011) (lsk, COURT STAFF). (Entered: 09/01/2011)
06/18/2013	80	Proposed Jury Instructions by USA as to Bassam Yacoub Salman (Leach, Robert) (Filed on 6/18/2013) (Entered: 06/18/2013)
08/13/2013	156	Proposed Jury Instructions by Bassam Yacoub Salman (Shifman, Gail) (Filed on 8/13/2013) (Entered: 08/13/2013)
08/23/2013	176	REPLY TO RESPONSE to Motion by USA as to Bassam Yacoub Salman *Proposed Jury Instructions* (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit) (Dowling, Katherine) (Filed on 8/23/2013) (Entered: 08/23/2013)
08/26/2013	179	Proposed Jury Instructions by Bassam Yacoub Salman *REPLY TO UNITED STATES REPONSE TO DEFENDANTS OBJECTIONS TO THE UNITED STATES PROPOSED*

JURY INSTURCTIONS (Shifman, Gail) (Filed on 8/26/2013) (Entered: 08/26/2013)

08/30/2013 184 Proposed Jury Instructions by Bassam Yacoub Salman *SUPPLEMENTAL BRIEF REGARDING PROPOSED JURY INSTRUCTION ON SECURITIES FRAUD* (Attachments: # 1 Exhibit Proposed Jury Instruction Securities Fraud – Elements & Definitions) (Shifman, Gail) (Filed on 8/30/2013) (Entered: 08/30/2013)

08/30/2013 186 RESPONSE by USA as to Bassam Yacoub Salman *Additional Briefing on Proposed Jury Instructions* (Dowling, Katherine) (Filed on 8/30/2013) (Entered: 08/30/2013)

09/03/2013 189 **ORDER Re Court's Proposed Jury Instructions as to Bassam Yacoub Salman. Signed by Judge Hon. Edward M. Chen on 9/3/2013. (emcsec, COURT STAFF) (Filed on 9/3/2013) (Entered: 09/03/2013)**

09/06/2013 191 Proposed Jury Instructions by Bassam Yacoub Salman – *Objections to the Court's Proposed Jury Instructions & Request For an Additional Instruction* (Shifman, Gail) (Filed on 9/6/2013) (Entered: 09/06/2013)

09/06/2013 192 Proposed Jury Instructions by USA as to Bassam Yacoub Salman *United*

States' Response to the Court's Proposed Jury Instructions (Reeves, Adam) (Filed on 9/6/2013) (Entered: 09/06/2013)

09/12/2013 196 **ORDER Re Court's Jury Instructions as to Bassam Yacoub Salman. Signed by Judge Hon. Edward M. Chen on 9/12/2013. (emclc2, COURT STAFF) (Filed on 9/12/2013) (Entered: 09/12/2013)**

09/16/2013 213 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/16/2013 (Court Reporter Belle Ball.) (bpf, COURT STAFF) (Filed on 9/16/2013) (Entered: 09/16/2013)

09/17/2013 218 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/17/2013 (Court Reporter Connie Kuhl/Belle Ball.) (bpfS, COURT STAFF) (Filed on 9/17/2013) (Entered: 09/17/2013)

09/18/2013 220 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/18/2013 (Court Reporter Belle Ball.) (bpf, COURT STAFF) (Filed on 9/18/2013) (Entered: 09/18/2013)

09/20/2013 229 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/20/2013 (Court Reporter Belle Ball.) (bpf, COURT STAFF) (Filed on 9/20/2013) (Entered: 09/20/2013)

09/23/2013 237 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/23/2013 (Court Reporter Belle Ball.) (bpfS, COURT STAFF) (Filed on 9/23/2013) (Entered: 09/23/2013)

09/24/2013 238 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/24/2013 (Court Reporter Belle Ball.) (bpf, COURT STAFF) (Filed on 9/24/2013) (Entered: 09/24/2013)

09/25/2013 241 **ORDER Re Court's Proposed Jury Instructions as to Bassam Yacoub Salman. Signed by Judge Edward M. Chen on 9/25/2013. (emcsec, COURT STAFF) (Filed on 9/25/2013) (Entered: 09/25/2013)**

09/25/2013 242 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/25/2013 (Court Reporter Belle Ball.) (bpf, COURT

STAFF) (Filed on 9/25/2013) (Entered. 09/25/2013)

09/26/2013 243 OBJECTION by Bassam Yacoub Salman *TO THE COURTS FINAL PROPOSED JURY INSTRUCTIONS AND REQUEST FOR ADDITONAL INSTRUCTION* (Shifman, Gail) (Filed on 9/26/2013) (Entered: 09/26/2013)

09/26/2013 244 RESPONSE by USA as to Bassam Yacoub Salman *UNITED STATES' RESPONSE TO THE DEFENDANT'S OBJECTIONS TO THE COURT'S FINAL PROPOSED JURY INSTRUCTIONS* (Dowling, Katherine) (Filed on 9/26/2013) (Entered: 09/26/2013)

09/27/2013 245 **FINAL JURY INSTRUCTIONS as to Bassam Yacoub Salman. Signed by Judge Hon. Edward M. Chen on 9/27/2013. (emcsec, COURT STAFF) (Filed on 9/27/2013) (Entered: 09/27/2013)**

09/27/2013 246 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub Salman held on 9/27/2013 (Court Reporter Belle Ball.) (bpf, COURT STAFF) (Filed on 9/27/2013) (Entered: 09/27/2013)

09/30/2013 252 Minute Entry for proceedings held before Judge Hon. Edward M. Chen:Jury Trial as to Bassam Yacoub

Salman held on 9/30/2013 (Court Reporter Belle Ball.) (Attachments: # 1 Envelope) (bpf, COURT STAFF) (Filed on 9/30/2013) (Entered: 09/30/2013)

9/30/2013 253 JURY VERDICT (bpf, COURT STAFF) (Filed on 9/30/2013) (Entered: 09/30/2013)

11/06/2013 262 MOTION for New Trial by Bassam Yacoub Salman. Motion Hearing set for 12/11/2013 03:30 PM in Courtroom 5, 17th Floor, San Francisco before Hon. Edward M. Chen. (Shifman, Gail) (Filed on 11/6/2013) (Entered: 11/06/2013)

11/22/2013 263 Memorandum in Opposition by USA as to Bassam Yacoub Salman *Motion for a New Trial* (Dowling, Katherine) (Filed on 11/22/2013) (Entered: 11/22/2013)

12/17/2013 268 **ORDER Denying 262 Defendant's Motion for a New Trial as to Bassam Yacoub Salman (1). Signed by Judge Edward M. Chen on 12/17/2013. (emcsec, COURT STAFF) (Entered: 12/17/2013)**

04/11/2014 286 **JUDGMENT in a Criminal Case as to Bassam Yacoub Salman. Signed by Judge Hon. Edward M. Chen on 4/10/14. (bpf, COURT STAFF) (Filed on 4/11/2014) (Entered: 04/11/2014)**

04/22/2014 293 NOTICE *of Appeal from Judgment & Sentence In Pro Per* by Bassam Yacoub Salman (Shifman, Gail) (Filed on 4/22/2014) (Entered: 04/22/2014)

04/22/2014 295 NOTICE OF APPEAL by Bassam Yacoub Salman re 286 Judgment in a Criminal Case Filing fee $ 505. Billed. (lskS, COURT STAFF) (Filed on 4/22/2014) (Entered: 04/23/2014)

04/23/2014 294 **ORDER of Forfeiture as to Bassam Yacoub Salman. Signed by Judge Edward M. Chen on 4/23/2014. (emcsec, COURT STAFF) (Filed on 4/23/2014) (Entered: 04/23/2014)**

04/28/2014 298 **AMENDED JUDGMENT in a Criminal Case as to Bassam Yacoub Salman (including forfeiture order.) Signed by Judge Hon. Edward M. Chen on 4/25/14. (bpf, COURT STAFF) (Filed on 4/28/2014) (Entered: 04/28/2014)**

06/06/2014 320 MOTION for Bond *Pending Appeal* by Bassam Yacoub Salman. Motion Hearing set for 6/25/2014 02:30 PM in Courtroom 5, 17th Floor, San Francisco before Hon. Edward M. Chen. (Cline, John) (Filed on 6/6/2014) (Entered: 06/06/2014)

06/13/2014 321 RESPONSE to Motion by USA as to Bassam Yacoub Salman *United States' Response to the Defendant's Motion for Release Pending Appeal*

(Reeves, Adam) (Filed on 6/13/2014) (Entered: 06/13/2014)

06/19/2014 322 REPLY TO RESPONSE to Motion by Bassam Yacoub Salman re 320 MOTION for Bond *Pending Appeal* (Cline, John) (Filed on 6/19/2014) (Entered: 06/19/2014)

07/01/2014 324 **ORDER Denying 320 Defendant's Motion for Release Pending Appeal as to Bassam Yacoub Salman (1). Signed by Judge Hon. Edward M. Chen on 7/1/2014. (emcsec, COURT STAFF) (Entered: 07/01/2014)**

07/10/2015 330 USCA Memorandum: AFFIRMED as to Bassam Yacoub Salman (lskS, COURT STAFF) (Filed on 7/10/2015) (Entered: 07/10/2015)

07/10/2015 331 OPINION: as to Bassam Yacoub Salman (lskS, COURT STAFF) (Filed on 7/10/2015) (Entered: 07/10/2015)

08/26/2015 334 MANDATE of USCA as to Bassam Yacoub Salman re 295 Notice of Appeal – Final Judgment: The judgment of this Court entered July 5, 2015, takes effect this date. This constitutes the formal mandate of this Court etc. (lskS, COURT STAFF) (Filed on 8/26/2015) (Entered: 08/26/2015)

01/28/2016 337 MOTION for Ex Parte Application- *FOR ORDER GRANTING UNOPPOSED MOTION FOR RELEASE PENDING APPEAL* by Bassam Yacoub Salman. Motion Hearing set for 1/4/2017 02:30 PM in Courtroom 5, 17th Floor, San Francisco before Edward M. Chen. (Attachments: # 1 Declaration ISO UNOPPOSED EX PARTE MOTION FOR RELEASE PENDING APPEAL, # 2 Proposed Order GRANTING UNOPPOSED EX PARTE MOTION FOR RELEASE PENDING APPEAL) (Cline, John) (Filed on 1/28/2016) (Entered: 01/28/2016)

01/29/2016 338 CLERK'S NOTICE as to Bassam Yacoub Salman vacating 1/4/2017 motion hearing. Court to take Defendant's motion for release under submission once the Illinois bond is provided to this Court. *(This is a text – only entry generated by the court. There is no document associated with this entry.)* (bpf, COURT STAFF) (Filed on 1/29/2016) (Entered: 01/29/2016)

01/29/2016 339 **ORDER granting 337 Motion for Ex Parte Application for release pending appeal as to Bassam Yacoub Salman (1). Signed by Judge Edward M. Chen on 1/29/16. (bpf, COURT STAFF) (Entered: 01/29/2016)**

01/29/2016	340	**AMENDED ORDER as to Bassam Yacoub Salman re 339 Order on Motion for Ex Parte Application for Release Pending Appeal. Signed by Judge Edward M. Chen on 1/29/16. (bpf, COURT STAFF) (Filed on 1/29/2016) (Entered: 01/29/2016)**
02/05/2016	341	**ORDER Setting Conditions of Release as to Bassam Yacoub Salman (1) unsecured $250,000.00. Signed by Judge Magistrate Judge Maria-Elena James on 2/5/16. (lskS, COURT STAFF) (Filed on 2/5/2016) (Entered: 02/05/2016)**
02/05/2016	342	Minute Entry for proceedings held before Judge Magistrate Judge Maria-Elena James:Bond Hearing as to Bassam Yacoub Salman held on 2/5/2016, Status Conference as to Bassam Yacoub Salman held on 2/5/2016. (Recording #10:04-10:07.) (lskS, COURT STAFF) (Filed on 2/5/2016) (Entered: 02/05/2016)

Relevant Docket Entries
General Docket
United States Court of Appeals
for the Ninth Circuit

Court of Appeals Docket #: 14-10204
United States v. Bassam Salman

04/23/2014	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. Reporters Transcript required: Yes. Sentence imposed: 36 Months. Transcript ordered by 05/13/2014. Transcript due 06/12/2014. Appellant briefs and excerpts due by 07/22/2014 for Bassam Yacoub Salman. Appellee brief due 08/21/2014 for United States of America. Appellant's optional reply brief is due 14 days after service of the answering brief. [9070090] (IV) [Entered: 04/23/2014 03:41 PM]
07/03/2014	10	Filed (ECF) Appellant Bassam Yacoub Salman Motion for bail pending Appeal. Date of service: 07/03/2014. [9156889] (Cline, John) [Entered: 07/03/2014 09:41 PM]
07/14/2014	15	Filed (ECF) Appellee USA response opposing motion (,motion for bail pending appeal or trial). Date of service: 07/14/2014. [9168182] (Leach, Robert) [Entered: 07/14/2014 03:41 PM]

07/20/2014 16 Filed (ECF) Appellant Bassam Yacoub Salman reply to response (, , motion for bail pending appeal or trial). Date of service: 07/20/2014. [9175015] (Cline, John) [Entered: 07/20/2014 12:16 AM]

07/28/2014 17 Filed order (MICHAEL DALY HAWKINS and KIM MCLANE WARDLAW): Appellant's motion for bail pending appeal is denied. Appellant has not shown that the appeal raises a "substantial question" of law or fact that is likely to result in reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process. See 18 U.S.C. § 3143(b); United States v. Handy, 761 F.2d 1279, 1283 (9th Cir. 1985). The briefing schedule established previously remains in effect. [9183964] (AF) [Entered: 07/28/2014 03:01 PM]

07/28/2014 18 Submitted (ECF) Opening Brief and excerpts of record for review. Submitted by Appellant Bassam Yacoub Salman. Date of service: 07/28/2014. [9184612] (Cline, John) [Entered: 07/28/2014 09:50 PM]

07/29/2014 19 Filed clerk order: The opening brief [18] submitted by Bassam Yacoub Salman is filed. Within 7 days of the

filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court has reviewed the excerpts of record [18] submitted by Bassam Yacoub Salman. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9185755] (WWP) [Entered: 07/29/2014 01:15 PM]

10/27/2014 24 Submitted (ECF) Answering Brief and supplemental excerpts of record for review. Submitted by Appellee USA. Date of service: 10/27/2014. [9291839] [14-10204] (Valliere, Barbara) [Entered: 10/27/2014 04:35 PM]

10/28/2014 25 Filed clerk order: The answering brief [24] submitted by USA is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. The

paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court has reviewed the supplemental excerpts of record [24] submitted by USA. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9292113] (WWP) [Entered: 10/28/2014 08:38 AM]

11/10/2014 28 Submitted (ECF) Reply Brief for review. Submitted by Appellant Bassam Yacoub Salman. Date of service: 11/10/2014. [9308387] [14-10204] (Cline, John) [Entered: 11/10/2014 11:19 PM]

11/13/2014 29 Filed clerk order: The reply brief [28] submitted by Bassam Yacoub Salman is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [9311572] (WWP) [Entered: 11/13/2014 11:12 AM]

04/07/2015 33 Submitted (ECF) Supplemental brief for review and filed Motion to file supplemental brief. Submitted by Appellant Bassam Yacoub Salman. Date of service: 04/07/2015. [9486393] [14-10204] (Cline, John) [Entered: 04/07/2015 11:18 AM]

04/15/2015 35 Filed (ECF) Appellee USA response opposing motion (motion to file supplemental brief). Date of service: 04/15/2015. [9497590] [14-10204] (Chan, Merry Jean) [Entered: 04/15/2015 05:22 PM]

04/18/2015 36 Filed (ECF) Appellant Bassam Yacoub Salman reply to response (motion to file supplemental brief,). Date of service: 04/18/2015. [9500742] [14-10204] (Cline, John) [Entered: 04/18/2015 09:39 AM]

04/21/2015 37 Filed clerk order (Deputy Clerk: WL): The Court grants appellant's motion for leave to file a supplemental brief (Docket No. 33) without prejudice to appellee's arguing that appellant has waived the argument raised therein. The Clerk is respectfully directed to file the supplemental brief received on April 7, 2015. Appellee may file an answering brief of no more than 10 pages addressing the waiver issue and/or the underlying merits by no later than May 1, 2015. Appellant may file a reply brief of no more than 3 pages by no later than May 8, 2015.

[9503253] (WL) [Entered: 04/21/2015 01:11 PM]

04/23/2015 38 Filed clerk order: The supplemental brief [33] submitted by Bassam Yacoub Salman is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [9506441] (WWP) [Entered: 04/23/2015 11:49 AM]

04/30/2015 40 Submitted (ECF) Supplemental Brief and supplemental excerpts of record for review. Submitted by Appellee USA. Date of service: 04/30/2015. [9520589] [14-10204] (Chan, Merry Jean) [Entered: 04/30/2015 12:47 PM]

04/30/2015 41 Filed clerk order: The supplemental brief [40] submitted by USA is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be printed from the PDF version of the brief created from

the word processing application, not from PACER or Appellate ECF. The Court has reviewed the supplemental excerpts of record [40] submitted by USA. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9520753] (WWP) [Entered: 04/30/2015 01:43 PM]

05/04/2015 44 Submitted (ECF) Reply Brief for review. Submitted by Appellant Bassam Yacoub Salman. Date of service: 05/04/2015. [9523165] [14-10204] (Cline, John) [Entered: 05/04/2015 07:32 AM]

05/04/2015 45 Filed clerk order: The supplemental reply brief [44] submitted by Bassam Yacoub Salman is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF [9523233] (WWP) [Entered: 05/04/2015 08:40 AM]

06/09/2015 48 ARGUED AND SUBMITTED TO MORGAN B. CHRISTEN, PAUL J. WATFORD and JED S. RAKOFF. [9567403] (GEV) [Entered: 06/09/2015 02:02 PM]

07/06/2015 49 FILED OPINION (MORGAN B. CHRISTEN, PAUL J. WATFORD and JED S. RAKOFF) AFFIRMED., Judge: JSR Authoring. FILED AND ENTERED JUDGMENT. [9598423] (RMM) [Entered: 07/06/2015 08:40 AM]

07/06/2015 50 Filed memorandum (MORGAN B. CHRISTEN, PAUL J. WATFORD and JED S. RAKOFF) AFFIRMED. [9598434] (RMM) [Entered: 07/06/2015 08:43 AM]

07/20/2015 51 Filed (ECF) Appellant Bassam Yacoub Salman petition for rehearing en banc (from 07/06/2015 opinion). Date of service: 07/20/2015. [9614723] [14-10204] (Cline, John) [Entered: 07/20/2015 08:24 AM]

08/13/2015 52 Filed order (MORGAN B. CHRISTEN, PAUL J. WATFORD and JED S. RAKOFF): Judge Watford and Judge Christen have voted to deny the petition for rehearing en banc, and Judge Rakoff has recommended denying Appellant's en banc petition. The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote

on whether to rehear the matter en banc. Fed. R. App. P. 35. Appellant's petition for rehearing en banc is DENIED. [9645501] (AF) [Entered: 08/13/2015 09:14 AM]

08/24/2015 53 MANDATE ISSUED. (MBC, PJW and JSR) [9657624] (RR) [Entered: 08/24/2015 01:00 PM]

01/21/2016 56 Received notice from the Supreme Court. Petition for a writ of certiorari is granted limited to Question 1 presented by the petition on 01/19/2016. Supreme Court Number 15-628. [9834796] (RL) [Entered: 01/21/2016 09:53 AM]

MELINDA HAAG (CABN 132612)
United States Attorney

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. BASSAM YACOUB SALMAN a/k/a Bassam Jacob Salman, Defendant.	No. *VIOLATIONS*: 18 U.S.C. § 371 – Conspiracy; 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. §§ 240.10b-5, 240.10b5-1 and 240.10b5-2, and 18. U.S.C. §2 – Securities Fraud; and 18 U.S.C. §§ 981(a)(1)(C), 21 U.S.C. § 853(p), and 28 U.S.C. § 2461 – Forfeiture. SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this indictment:

1. Citigroup Global Markets Inc., a wholly owned subsidiary of Citigroup Inc. (collectively "Citigroup"), operated as an investment bank located in New York, New York. A significant portion of Citigroup's business was devoted to advising corporations on various financings and business related transactions.

2. Maher Kara was employed as an investment banker by Citigroup in the firm's Investment Banking Division in the Healthcare Group and resided in or near New York, New York.

3. Mounir Kara, also known as Michael Kara, resided in or near Walnut Creek, California.

4. Maher Kara and Michael Kara were brothers.

5. BASSAM YACOUB SALMAN, also known as Bassam Jacob Salman, resided in or near Orland Park, Illinois.

6. Maher Kara was married to BASSAM YACOUB SALMAN's sister.

7. A person known to the Grand Jury as KIB was the brother-in-law of BASSAM YACOUB SALMAN and maintained a brokerage account at Comerica Securities.

Citigroup's Confidentiality Policy

8. Citigroup maintained written policies prohibiting the dissemination of material nonpublic and confidential information relating to pending transactions and financings in which Citigroup was involved. Throughout his employment at Citigroup, Maher Kara received repeated training and guidance about the proper use of material non-public and confidential information and the prohibitions against the improper use of such information including violations of the

insider trading laws. For example, Maher Kara was specifically instructed by Citigroup that:

> The misuse of material non-public information is a crime. Under U.S. Federal securities laws, misuse of material non-public information can constitute insider trading.
>
> * * * * *
>
> Employees may not: Use confidential information or material non-public information to trade securities for their own (or related) accounts or to advise relatives, friends or others with respect to trading.

As a licensed and trained investment banking professional, Maher Kara knew and understood the rules relating to the use of material non-public and confidential information.

The Citigroup Inside Information

9. Citigroup provided financial and investment banking services and advice to Citigroup clients in connection with the confidential transactions described below (the "Citigroup Inside Information"):

a. *Bone Care International, Inc.*: In or about April 2005, Citigroup advised Bone Care International, Inc. on a sale to Genzyme Corporation. On or about May 4, 2005, there was a public announcement relating to this transaction.

b. *Andrx Corporation*: In or about January 2006, Citigroup advised a company known to the

Grand Jury on a potential acquisition involving Andrx Corporation. On or about March 13, 2006, there was a public announcement relating to Andrx Corporation.

c. *United Surgical Partners International, Inc.*: From in or about late 2006 to early 2007, Citigroup advised Welsh, Carson, Anderson & Stowe on a buyout involving United Surgical Partners International, Inc. (also known as USPI). On or about January 8, 2007, there was a public announcement relating to this transaction.

d. *Biosite Incorporated*: In or about March 2007, Citigroup advised Beckman Coulter, Inc. about financing relating to an acquisition involving Biosite Incorporated. On or about March 25, 2007, there was a public announcement relating to this transaction.

10. As a result of his employment at Citigroup, Maher Kara had access to material, non-public information relating to the Citigroup Inside Information. Maher Kara also had access to material, non-public information relating to other confidential transactions in which Citigroup was involved.

The Insider Trading Scheme

11. From in or about 2004 through in or about 2007, Maher Kara, Michael Kara, BASSAM YACOUB SALMAN, and others participated in a scheme to defraud by executing securities transactions based on material, non-public information relating to the

Citigroup Inside Information. Maher Kara regularly and repeatedly called or communicated with Michael Kara and provided him with material, non-public information relating to the Citigroup Inside Information and other material, non-public and confidential information.

12. Using the Citigroup Inside Information, Michael Kara and BASSAM YACOUB SALMAN executed, or caused others to execute, multiple securities transactions in various brokerage accounts based on the Citigroup Inside Information. Maher Kara, Michael Kara, and BASSAM YACOUB SALMAN each benefitted from his participation and the participation of others in this insider trading scheme.

13. Between 2004 and 2007, BASSAM YACOUB SALMAN and others generated profits in excess of $1.1 million as a result of this insider trading scheme.

COUNT ONE: (18 U.S.C. § 371 – Conspiracy to Commit Securities Fraud)

14. Paragraphs 1 through 13 are realleged as if fully set forth here.

15. From in or about 2004 through in or about 2007, in the Northern District of California and elsewhere, the defendant,

BASSAM YACOUB SALMAN,

and others, did unlawfully, willfully, and knowingly, conspire and agree and with one another to commit an offense against the United States, to wit, securities

fraud, in violation of Title 18, United States Code, Section 371, and Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2.

The Means and Methods of the Insider Trading Conspiracy

16. Among the means and methods by which BASSAM YACOUB SALMAN and others carried out this insider trading conspiracy were the following:

a. Maher Kara misappropriated the Citigroup Inside Information in violation of (i) the fiduciary and other duties of trust and confidence that Maher Kara owed to Citigroup and Citigroup's clients; (ii) the expectations of confidentiality of Citigroup's clients; and (iii) Citigroup's policies and procedures relating to the use and safekeeping of confidential and material, non-public information.

b. Maher Kara, in breach of his duty of confidentiality to Citigroup and Citigroup's clients, disclosed the Citigroup Inside Information that Maher Kara had misappropriated from Citigroup and Citigroup's clients to Michael Kara, with the understanding that Michael Kara would use the Citigroup Inside Information to purchase and sell securities, and Maher Kara thereby received and caused others to receive substantial illegal profits.

c. Michael Kara, while in possession of the Citigroup Inside Information that he knew had been misappropriated by Maher Kara in breach of the duty owed by Maher Kara and Citigroup to keep such information confidential, purchased and sold securities based on such information and caused others to purchase and sell securities based on such information and thereby received and caused others to receive substantial illegal profits.

d. Michael Kara disclosed some or all of the Citigroup Inside Information that Maher Kara had misappropriated from Citigroup and Citigroup's clients to BASSAM YACOUB SALMAN and others, with the understanding that BASSAM YACOUB SALMAN and others would use, or cause others to use, the Citigroup Inside Information to purchase and sell securities, and Michael Kara thereby received and caused others to receive a benefit including substantial illegal profits.

e. BASSAM YACOUB SALMAN disclosed some or all of the Citigroup Inside Information that Maher Kara had misappropriated from Citigroup and Citigroup's clients to KIB, with the understanding that KIB would use, or cause others to use, the Citigroup Inside Information to purchase and sell securities, and BASSAM YACOUB SALMAN thereby received and caused others to receive a benefit including substantial illegal profits.

f. BASSAM YACOUB SALMAN used or caused KIB to use the Comerica Securities brokerage

account in the name of KIB to conceal the purchase and sale of securities using the Citigroup Inside Information.

Overt Acts in furtherance of the Insider Trading Conspiracy

17. In furtherance of the conspiracy and to effect the illegal object thereof, Maher Kara, Michael Kara, and BASSAM YACOUB SALMAN, committed and caused others to commit the following overt acts, among others, in the Northern District of California and elsewhere:

a. On or about April 28, 2005, Michael Kara telephoned BASSAM YACOUB SALMAN.

b. On or about May 2, 2005, BASSAM YACOUB SALMAN caused the purchase of approximately 300 securities in Bone Care International, Inc. in Comerica Securities Account 0RJ-610917.

c. On or about May 3, 2005, BASSAM YACOUB SALMAN caused the purchase of approximately 300 securities in Bone Care International, Inc. in Comerica Securities Account 0RJ-610917

d. On or about February 24, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 99 securities in Andrx Corporation in Comerica Securities Account 0RJ-610917

e. On or about February 24, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 144 securities in Andrx Corporation in Comerica Securities Account 0RJ-610917.

f. On or about March 9, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 130 securities in Andrx Corporation in Comerica Securities Account 0RJ-610917

g. On or about March 9, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 140 securities in Andrx Corporation in Comerica Securities Account 0RJ-610917

h. On or about August 9, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 35 securities in United Surgical Partners International, Inc. in Comerica Securities Account 0RJ-610917.

i. On or about August 11, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 48 securities in United Surgical Partners International, Inc. in Comerica Securities Account 0RJ-610917

j. On or about September 7, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 35 securities in United Surgical Partners International, Inc. in Comerica Securities Account 0RJ-610917

k. On or about November 7, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 49 securities in United Surgical Partners International, Inc. in Comerica Securities Account 0RJ-610917.

l. On or about December 12, 2006, BASSAM YACOUB SALMAN caused the purchase of approximately 99 securities in United Surgical Partners International, Inc. in Comerica Securities Account 0RJ-610917

m. On or about March 22, 2007, Michael Kara telephoned BASSAM YACOUB SALMAN.

n. On or about March 23, 2007, BASSAM YACOUB SALMAN caused the purchase of approximately 15 securities in Biosite Incorporated in Comerica Securities Account 0RJ-610917.

o. On or about March 23, 2007, BASSAM YACOUB SALMAN caused the purchase of approximately 20 securities in Biosite Incorporated in Comerica Securities Account 0RJ-610917

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH FIVE: (15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. §§ 240.10b-5 and 240.10b5-2; 18 U.S.C. § 2 – Securities Fraud – Aiding and Abetting)

18. Paragraphs 1 through 17 are realleged as if fully set forth here.

19. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendant,

BASSAM YACOUB SALMAN,

did willfully, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, in connection with the purchase and sale of securities, use and employ manipulative and deceptive devices and contrivances, and aided and abetted others in using and employing manipulative and deceptive devices and contrivances, in violation of Title 15, United States Code, Section 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2, and Title 18, United States Code, Section 2, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, BASSAM YACOUB SALMAN executed or caused others to execute the securities transactions listed below based on material, non-public information and confidential information Michael Kara and BASSAM YACOUB SALMAN obtained from Maher Kara:

COUNT	TRADE DATE	SECURITY	ACCOUNT	TRADE
TWO	November 7, 2006	United Surgical Partners International, Inc.	Comerica Securities 0RJ-610917	purchased 58 securities
THREE	December 15, 2006	United Surgical Partners International, Inc.	Comerica Securities 0RJ-610917	purchased 6,200 securities
FOUR	March 23, 2007	Biosite Incorporated	Comerica Securities 0RJ-610917	purchased 37 securities
FIVE	March 23, 2007	Biosite Incorporated	Comerica Securities 0RJ-610917	purchased 22 securities

All in violation of Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2; and Title 18, United States Code, Sections 2 and 371.

FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C); 21 U.S.C. § 853(p); and 28 U.S.C. § 2461)

20. Paragraphs 1 through 19 are realleged as if fully set forth here and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States

Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

21. Upon a conviction of any of the offenses alleged in Counts One through Five, the defendant,

BASSAM YACOUB SALMAN,

shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all right, title and interest in property, real and personal, involved in said violations as alleged in Counts One through Five of this Indictment, including but not limited to the following property: a sum of not less than $1.1 million, representing the amount of proceeds obtained as a result of the offenses alleged in Counts One through Five.

22. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property, up to the value of the property described in paragraph 23 above, shall be forfeited to the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All in violation of Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.10b5-1 and 240.10b5-2; Title 18, United States Code, Sections 2, 371 and 981(a)(1)(C); Title 21, United States Code, Section 853(p); and Title 28, United States Code, Section 2461.

DATED: September 1, 2011

A TRUE BILL

/s/ [signature omitted]
FOREPERSON

MELINDA HAAG
United States Attorney

/s/ Miranda Kane

MIRANDA KANE
Chief, Criminal Division

Approved as to form:

/s/ Adam A. Reeves

ADAM A. REEVES
Assistant United States Attorney

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Tuesday
	) September 17, 2013
Defendant.	) 8:51 a.m.

TRANSCRIPT OF TRIAL PROCEEDINGS

APPEARANCES:

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and
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BY: SHAFFY MOEEL, ESQ.

Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

[285] time period?

A. I did.

Q. And how so, approximately? How often?

A. You know, probably a couple of times a month, dinner or, you know, drinks.

Q. And as a banker at Citigroup, did you work on confidential matters involving material, nonpublic information?

A. I did.

Q. And can you give us some examples to the jury of the types of confidential matters that you dealt with while a banker at Citigroup?

A. Well, we worked a lot with public companies, so anytime you're working on a transaction or a financing or advisory product for a public company, that would certainly be confidential. If we were selling a business, for a – private equity firms typically own private businesses, so if you were selling a business for a private equity firm, you would be running

a sale process, and the information in that sale process would be confidential. You wouldn't want other buyers to know what people were bidding on assets or, you know, who else was in the process. You know, virtually most of what we did was confidential.

Q. And why wouldn't you want other people – do you mean the public by "other people"? – to know about these deals?

[286] A. For public companies? Well, for public companies, it could affect – you know, knowing what a public company was doing could affect their stock price, in theory.

Q. And what would be the result of that, if the public found out about that?

A. Well, would depend on what you're working on, but it could cause the stock to go up or down, depending on what the situation was.

Q. And might that be injurious to your client, whichever company you were working with?

A. Yes, could be.

Q. So were there policies and procedures in place at Citigroup with regard to your use of confidential information?

A. To my recollection, there were, yes.

Q. And do you recall Citigroup providing you training on these policies and procedures?

A. I do.

Q. Can you provide some examples of the training you would have received at Citigroup?

A. There were – there was a – my memory was either there were, you know, conference calls you would dial into and listen in and be logged in so you could confirm that you listened to the call. Or at the time there was online training, where you would, you know, pull up a training video and you would click through it and answer questions and kind [287] of be reminded of either confidentiality issues or money laundering – just kind of all the basic securities, you know, issues that we deal with.

Q. And did these take place on a regular basis or semi regular basis?

A. My memory was it was a regular basis. At least annually.

Q. You indicated at the group meetings individuals discussed deals. Would you discuss deals with your colleagues within healthcare banking at Citigroup?

A. I would.

Q. And do you recall discussing your deals with your colleague, Maher Kara?

A. I don't specifically remember, you know, discussing deals with Maher, but it was likely that we spoke about what we were working on.

Q. Would you have hesitated to speak with Maher Kara about the deals you were working on?

A. No.

Q. Why? Why is that?

A. Well, we were colleagues. We worked together and we were – you know, it was a team kind of environment where you work with folks and, you know, if there was a concern about confidential information, that you didn't really have that concern within the folks that you worked with.

Q. I want to move now to the time period, mid 2006 to early

* * *

[293] admitted.

(Trial Exhibit 317 received in evidence)

BY MS. DOWLING:

Q. Mr. Decelles, if you could look at the subject line of this exhibit, please.

A. Yep.

Q. If you could highlight the subject line.

Mr. Decelles, if you could see in the subject line there appear to be some code numbers and the words Project Unicorn. What is that reference to?

A. I believe that's the reference to the code name for the deal with United Surgical Partners.

Q. And why is there a code name for this United Surgical Partners deal?

A. You typically code name M&A projects or, you know, projects for public companies in case a document's left around or if you're on a plane, for example, and you're looking at some documentation and you would not want to have the name of a public company easily displayed where someone sitting next to you could read over your shoulder, so you try to code-name sensitive material.

Q. Sensitive material, so confidential material?

A. Yes.

Q. To protect the confidentiality of the –

A. Yes, correct.

* * *

[301] A. January 3rd, 2007

MS. DOWLING: Your Honor, I move Exhibit 324 into evidence.

MS. MOEEL: Objection. Foundation; hearsay.

THE COURT: Objection overruled. 324 is admitted. (Trial Exhibit 324 received in evidence)

BY MS. DOWLING:

Q. I want to focus your attention, Mr. Decelles, on – you said that this e-mail was dealing with the timing of the deal – and first, what is the date of this e-mail again?

A. January 3rd, 2007

Q. So if we look at the first paragraph, the last sentence says, "This does expose us to a few more days of market risk, but not much we can do. So absolutely critical that there are no leaks."

A. Yep.

Q. Why is it critical that there are no leaks?

A. This is going back a few years. My memory is that there was an agreed-upon deal by the board at this point, meaning the board had agreed to sell the company at a certain price. If there were leaks in the market that the company's being bought, in theory, that stock price would go up. And if it went up, either too close to the price they had agreed upon or above the price they had agreed upon to sell, then you wouldn't do the deal.

[302] Q. So Mr. Zimmerman was sending this out to say, Safeguard this information; it's confidential; we don't want it to get out to the public?

A. Not specifically this information, but kind of a reminder: Make sure no one's talking about it, it's not going to be announced until Monday, and keep it quiet.

Q. Okay. You can set that exhibit aside, please.

A. Okay.

Q. I'll show you the last exhibit. This has been marked as Exhibit 402. Take a look at that.

A. Yep.

Q. Do you recognize this exhibit?

A. Yes.

Q. And what is this, Mr. Decelles?

A. This is a press release from the company, United Surgical Partners, announcing that they've been acquired by Welsh, Carson, and for the amount per share that the deal will be done at.

MS. DOWLING: Your Honor I'd like to move Exhibit 402 into evidence, please.

MS. MOEEL: No objection.

THE COURT: All right. 402 is admitted.

(Trial Exhibit 402 received in evidence)

BY MS. DOWLING:

Q. Mr. Decelles, what is the date of this press release?

* * *

[305] Q. The harm that could come to your clients, right?

A. Yes.

Q. The harm that could come to your employer?

A. Yes.

Q. And your employer made sure that you understood the significance of your duty of confidentiality?

A. Yes.

Q. That the significance was in part to protect your employer's business interests?

A. Yes. And reputation, yes.

Q. And reputation. And your clients' business interests as well?

A. Correct.

Q. You attended training courses annually for the updates?

A. Yeah, I believe. Yes, at least annually. I believe that's correct.

Q. At least annually. So it could have been several times a year?

A. Yes.

Q. And you received that training to learn how to handle nonpublic information?

A. Yes, among other things, yes.

Q. Among other things.

A. Yes.

Q. How to not break the law in other ways?

[306] A. Correct.

Q. How to not launder money?

A. Yes.

Q. How to not insider trade?

A. Yes.

Q. The – at Citigroup, you also had an employee handbook that told you the rules that you needed to follow, right?

A. Um, I'm sure there was. I don't recall it, but I would imagine there was a handbook of some sort. Whether it was online or an actual book, I don't remember.

Q. Okay. Was there a handbook that you're familiar with at your current job at Jeffries?

A. No.

Q. The handbook would have explained what the rules of the position were, right?

A. In theory, yes.

Q. Citigroup took its training of his employees seriously, I believe it's fair to say?

A. I believe they did.

Q. You're confident that because of the extensive training that Citigroup had, the employees that were working under you understood their duties with regard to confidentiality?

A. I do. I did.

Q. And basically the rules on this subject are drilled into you from Day 1?

* * *

[311] A. Yes.

Q. And what locations did that include?

A. New York and San Francisco.

Q. And again, in this time period, while you, 2005 to 2007, while you were a vice-president and then director in the healthcare group at Citigroup, what were your duties and responsibilities? How would you describe your job?

A. I was responsible for the relationships with clients, and managing transaction teams for projects that we worked on for clients.

Q. So what types of clients would you provide banking services to?

A. Within the healthcare sector, primarily biotechnology companies and medical device companies, public companies.

Q. And what – you say you also managed teams within the healthcare group. What do you mean by that?

A. When we worked on projects, if I had associates or analysts working on a transaction for me, I would manage the work that they did and give direction to the team.

Q. All right. And are you like most other people working in corporate structures, where you have some people above you, some people below you?

A. Yes.

Q. All right. So, in this period, were the deals and transactions that you described working on confidential [312] sometimes?

A. Yes.

Q. And in this period, did Citigroup have policies and rules regarding the use of confidential information?

A. Yes.

Q. And did that extend to the use of what is known as material, nonpublic information?

A. Yes.

Q. What do those terms mean to you, material, nonpublic information, Mr. Schwake?

A. Information that has not been released publicly in press releases or whatever by the company. And is material in nature in that it could impact either the share price or business in some fashion.

Q. All right. Now, in 2005 to 2007, did the clients that you were helping with these banking services have an interest in keeping nonpublic information confidential in certain circumstances?

A. Yes.

Q. And what type of interest would your clients have in keeping this information confidential?

A. If they were working on transactions that had not been publicly released, the release of that information could impact the – their own share price, the share price of target companies that they might be looking to acquire or joint [313] venture projects that they're working on. The release of information about planned dividends or share repurchases could impact the share prices, so could have detrimental effects on the company's plans.

Q. And if you're working on a possible acquisition, for example, could the unauthorized, premature release of confidential information have an effect on that particular deal?

A. Yes.

Q. In what way?

A. Most typical case might be that that information that a target company was to be acquired got out, that the share price on that company might increase, and make the transaction even more expensive and more difficult to complete.

Q. More expensive for the client, right?

A. Yes.

Q. All right. While you were at Citigroup during this period of time, were you trained on how to handle and use material, nonpublic information?

A. Yes.

Q. Is that also sometimes referred to as inside information?

A. Yes.

Q. Describe, if you would, the nature of your training at Citigroup in this period on that subject.

A. I recall regular, in-person training sessions; and then [314] online refresher sessions.

Q. Okay. Was this an important thing to get right at Citigroup?

A. Yes.

Q. All right. Do you know someone by the name of Maher Kara?

A. Yes.

Q. And how do you know Mr. Kara?

A. He worked in the healthcare investment banking group at Citi.

Q. And was he a colleague of yours during this period?

A. Yes.

Q. Again, in the period 2005 to 2007, describe your contact or level of contact with Mr. Maher Kara.

A. You know, in events where we had the group gathered, we would see each other, work together. We had occasional interaction over the phone and by e-mail, certainly.

Q. Now, you're in Los Angeles. Where was Mr. Kara located, to the best of your knowledge?

A. In New York.

Q. Were there meetings within the healthcare group that occurred by telephone conference call, for example?

A. Yes.

Q. And did both of you participate in any of those meetings?

A. I don't recall specifically, but I believe so, yes.

[315] Q. It would be your expectation that when the group was gathered in both locations, that you and Mr. Kara would be at those healthcare group meetings?

A. Yes.

Q. All right. Now, in this time period, do you ever recall seeking Mr. Maher Kara's advice about any particular type of subject if it arose in your work within Citigroup?

A. Yes.

Q. And what subjects would you consult with Mr. Kara about?

A. In the area of oncology, and companies in that space.

Q. What does oncology mean?

A. The study and science of cancer and the treatment of cancer.

Q. The treatment of cancer. And why would you reach out to Mr. Kara if you had a question about oncology?

A. He was expert in that field in terms of the companies working in that space, and I had clients that were also in that space. So we might confer on the ongoings in the oncology sector.

Q. And in those occasions when you reached out to him, did you rely on the advice that he gave you about oncology, for example?

A. Yes.

Q. All right. In 2005 and 2007, during meetings of the healthcare group within Citigroup, would the investment [316] bankers that were meeting discuss confidential, nonpublic information?

A. Yes.

Q. And describe how that would happen? Why would that be occurring during the meetings of the healthcare group?

A. In our regular meetings of the group of investment bankers who would, you know, who would talk about transactions that were ongoing or pending, in order to confer, get advice, make sure there weren't conflict issues with other clients.

Q. What does a conflict issue mean?

A. If, like two clients with opposing interests, make sure that you're not working for both of them in an opposing fashion.

Q. All right. And on those occasions, would you talk openly about our deals and the status of the particular deals you were working on?

A. Yes.

Q. All right. And what expectation would you have of the other investment bankers who were attending these meetings with regard to keeping that information confidential?

A. That they would keep that information confidential.

Q. And why do you have that expectation?

A. They received the same training that I did, and they were aware of the confidential nature of the information, and the repercussions of not keeping it confidential.

[317] Q. On those occasions when you spoke with Maher Kara on oncology or other subjects that were within his field of expertise, as you described it, was it your expectation that he would keep that information confidential?

A. Yes.

Q. I'd like to direct your attention, if I could, please, to in or around April 2005. At or around that

time, did you work on a transaction involving Bone Care, International?

A. Yes.

Q. Are you familiar with Bone Care?

A. Yes.

Q. What is Bone Care, International?

A. Bone Care, International is a pharmaceutical company.

Q. Okay. And what was the nature of the deal that you were working on in that time period?

A. We represented Bone Care in their sale to Genzyme, which was a large biotechnology company.

Q. And did that sale eventually transpire?

A. Yes, it did.

Q. Did that happen sometime in or around May 2005?

A. Yes.

Q. Now, prior to the time the deal was transacted, was the information relating to this possible deal confidential?

A. Yes, it was.

Q. Was it material, nonpublic information in that period of

* * *

[328] A. Biosite was another medical diagnostic company with unique technologies that Beckman Coulter did not have.

Q. All right.

Now, moving forward a little bit in time to on or around March 25th 2007, at or about that time, was information about the Beckman Coulter/Biosite deal publicly announced for the first time?

A. I don't specifically recall the date that it was publicly announced.

Q. But did there come a time when there was an announcement of a deal?

A. Yes.

Q. Sometime later on in 2007; is that correct?

A. Yes.

Q. All right. I'd like to talk about the period of time while you were working on the deal before there was a public announcement. Is that period clear to you?

A. Yes.

Q. In that period of time, in or around February and earlier March 2007, was this possible deal between Beckman Coulter and Biosite confidential information?

A. Yes.

Q. Was it material, nonpublic information?

A. Yes.

Q. Why was it material, nonpublic information?

[329] A. It was a transaction that they were contemplating that had not been publicly – the public had not been made aware of. And the release of that information could impact their ability to effect the transaction.

Q. And "their ability" would be Beckman Coulter's ability?

A. Correct.

Q. How could the early or unauthorized disclosure of Beckman Coulter's interest in Biosite have affected Beckman Coulter's ability to complete the transaction? How would that affect that?

A. The share price on Biosite might raise if there's speculation on the transaction, and thus make it more expensive for Beckman Coulter to effect that transaction.

Q. Okay. Good. Let me show you, if I could, Exhibit 8, please.

Do you recognize Exhibit 8?

A. I do.

Q. What do you recognize it to be?

A. This is an e-mail with an attachment, which is a presentation that we made to Beckman Coulter regarding financing and capital structure.

Q. And when was this e-mail sent? According to the document?

A. March 3rd, 2007.

Q. Are you one of the recipients of the email with the

* * *

[338] Q. What does that mean?

A. Louisiana was the code name for the project, Beckman Coulter's proposed acquisition of Biosite.

Q. Why do you use code names like Louisiana for the deal?

A. To help preserve the confidentiality of the transaction, of the information.

Q. Is that a regular practice within Citigroup during this time?

A. Yes.

Q. So what's accomplished by using a code name where, by contrast, people within the health-care group had still talk about the deals? Help us understand why you would use a code name, please.

A. If a document or correspondence or communication with information about the transaction gets beyond the group or is lost, you know, by somebody on

the outside, if it has project names and code names, presumably won't be able to identify it, or at least it would make it harder for them to identify the companies that we're talking about.

Q. Okay. Thank you. I'm done with that.

I'd like to show when you has been marked as Government Exhibit 12 for identification.

If I may approach?

THE COURT: Yes.

Q. Do you recognize Exhibit 12?

* * *

[350] training about the rules and regulations of your industry?

A. Yes.

Q. And part of that was how to handle confidential, nonpublic information, as you discussed, right?

A. Correct.

Q. And at your time at Citigroup, you received plenty of training on that topic?

A. Yes.

Q. It was annually, at least, right?

A. As I recall.

Q. Sometimes several times a year?

A. Yes.

Q. And you also understood then why the duty of confidentiality was important for you and your clients?

A. Yes.

Q. And your employer?

A. Yes.

Q. Great. Among the documents that you testified about on direct – I don't know if you recall, and if you don't, I'll show you, but there's a stamp on the bottom of each document that indicates that the document is confidential. Do you recall seeing that stamp?

A. On some of the documents.

Q. Okay. Let me pull some up for you.

Your Honor, may I approach, please?

* * *

[356] you, Mr. Kara. If you could take a look at it and let us know if you recognize that.

A. Yes, I do.

Q. What do you recognize that document to be?

A. This is a copy of a plea agreement that I entered into with the United States government.

Q. And if you could please turn to Page 9 of Exhibit 85.

A. Yes.

Q. And is that your signature on that page?

A. Yes, it is.

Q. And what is the date of the plea agreement?

A. July 6, 2011.

Q. And are you familiar with the contents of the plea agreement?

A. Yes, I am.

Q. Mr. Kara, what crimes have you pled guilty to?

A. I've pled guilty to two crimes. The first is to securities fraud, and specifically with relation to insider trading; and the second crime was conspiracy to commit securities fraud.

Q. And how did you commit the crimes of conspiracy and insider trading?

A. Starting with insider trading, I illegally tipped my brother, Mounir Michael Kara, with the intent that he benefit from information about companies or stocks.

[357] And then, with conspiracy to commit securities fraud, it was similarly that the information that I was giving my brother I knew would benefit him.

Q. And have you been sentenced for those crimes?

A. No, Ma'am, I have not.

Q. And if you could please turn to Page 6.

A. (The witness complies)

Q. And as part of your plea agreement, Mr. Kara, have you agreed to cooperate with the government?

A. Yes, I have.

Q. And what do you mean by "cooperate"? What does that mean to you?

A. To me, when I entered into the agreement, it was really to respond truthfully to questions about my conduct as well as any other questions that the government had regarding this matter.

Q. If you could turn now to Page 8, and there's a section on Page 8 under a heading called "government's promises"

A. Yes.

Q. What promises has the government made to you in the plea agreement?

A. Really just what is written here. And specifically it was, the way I understood it, was about moving to dismiss any other open charges that were related to this case, agreeing not to add any additional charges than the two that I have

* * *

[359] A. Yes, in 1976, there was a civil war ongoing in Lebanon and my parents emigrated to the United States. We eventually settled in the Bay Area.

Q. And do you live in the Bay Area now?

A. Yes, I do.

Q. And do you have any siblings?

A. I do. I have older brother, Mounir – Michael – Kara. And I have a sister, Mya, and her married name is Pendleton.

Q. How much older is your brother, Michael, than you are?

A. He is about 10 years and a few months older than I am.

Q. And are you married, Mr. Kara?

A. Yes, I am.

Q. What is your wife's name?

A. Sawsan, S-a-w-s-a-n, or commonly known as Susie, Kara. She's taken on our last name.

Q. What was her maiden name?

A. Salman. S-a-l-m-a-n.

Q. And does she have any siblings?

A. Yes, she does.

Q. What are their names?

A. She has three siblings, and her older sister, her name is Amao, A-m-a-o. She has an older brother, Ghazy, G-h-a-z-y. And an older brother named Bassam.

Q. And is Susie the sister of the defendant Bassam Salman?

A. Yes.

[360] Q. Your wife's older brother, Bassam Salman, is he similarly aged to your older brother, Michael?

A. I believe so.

Q. When did you first meet Susie?

A. Susie and I met in right around 2002, February of 2002.

Q. How did you meet?

A. We met through a common family introduction. My parents met a relative of hers, and we were introduced to one another that way.

Q. And when did you first meet Susie's brother, Bassam Salman?

A. I believe I took a trip out to Chicago to meet Susie first, and then also the family, in or around April of 2002.

Q. At some point, did you become engaged to Susie?

A. We did. Thankfully, we got engaged in June of 2003.

Q. June of 2003?

A. Uh-huh.

Q. And from the time of your engagement going forward, did your family, the Karas and the Salman family, spend time together?

A. Yes, we did.

Q. What are some examples of the time the family spent together?

A. We're all from Middle Eastern cultures, so it's very common that the families have to get to know one another, so [361] initially, my sister took a trip out to Chicago, shortly after – or along the same time that I took my first visit. Susie's family came out shortly thereafter to meet my family in the San Francisco Bay Area. And we had several chances to go out and visit them as well in Chicago.

Q. You indicated that the families have to get to know one another. Why is that?

A. I think when we think of marriages or unions, we think of not only the spouse/spouse relationship, we think of it as a family relationship.

Q. So the families are expected to be close?

A. We hope – yes, we hope, and we would like to expect that they become close, yes.

Q. Did they become close?

A. I believe we did. I love Susie's family very much.

Q. And did you observe Bassam Salman and your brother Michael interact during this time period of the family's getting to know one another and becoming close?

A. Yes, they did.

Q. And did they appear to be friends?

A. Yes, I think they became friendly, yes.

Q. Did you observe them spending time together?

A. Sure, yes, I did.

Q. Did Bassam Salman attend your wedding?

A. Yes, he did.

* * *

[365] A. He is also a friend of my brother's.

Q. What about all the way down on the bottom, there's an individual with the name Nabil Bahu with a photo. Do you know who that individual is?

A. Yes, I do.

Q. Who is that?

A. He is the – Sam Salman's brother-in-law.

Q. Then last question on this chart: If you see there are three down the left side, Roula, Rana and Rania Atiyeh. Do you know who those individuals are?

A. I know Miss Roula and Miss Rania. I've met both of them. I don't really know Rana.

Q. And how do you know those individuals?

A. Roula is married to Mr. Bassam Salman and is my sister-in-law. And Rania is her sister, and is Nabil's wife and somebody that I have met.

Q. Thank you. You can set that exhibit to the side. You said that you grew up in the Bay Area; is that correct?

A. Yes.

Q. Where did you go to high school?

A. I went to high school in the Sunset District here at St. Ignatius College Preparatory.

Q. And where were you go to college?

A. I want to college at UC-Berkeley.

[366] Q. And what year were you graduated from UC-Berkeley?

A. I graduated in 1993.

Q. And did you start work after graduating from UC-Berkeley?

A. No, I didn't.

Q. What did you do?

A. My brother fell ill during that time as a result of complications related to a surgery that he had had around that April or May of 1993 timeframe. So I stayed at home and helped my family to take care of my brother. He was in intensive care for several months. And along that time, I also took all of the – all the parts of the CPA exam and got my CPA during that time.

Q. That was productive.

A. Yeah.

Q. So your brother also lives in the Bay Area?

A. Yes.

Q. And after you spent approximately six months, I think you said, helping your brother recuperate, what did you do next?

A. I moved to New York and I accepted a position with a company that I had interned with, and that was Coopers & Lybrand, and I was working in their Manhattan office in the tax consultant group.

Q. So you decided to leave the Bay Area and go to New York?

A. I did.

Q. Why is that?

[367] A. I think – for several reasons. The primary reason was really to have a progression in my

life. I had lived at home all the way through college and had never gotten a chance to really feel independent. So I wanted the opportunity to do that. At the same time, I had dealt with quite a few issues surrounding the stress that my brother had put on our family. And I wanted to try and break free, away, if you will, and live my life independently without a lot of the stress that was coming along with it.

Q. You mentioned the stress involved with your brother. Prior to your move to New York to work with Coopers & Lybrand, did you ever observe your brother, Michael, abuse alcohol or drugs?

A. No.

Q. And after working at the tax consultant group at Coopers & Lybrand in New York, what did you do next?

A. I decided during the middle of 1995 to apply for business school. And – I wanted to get my masters in business administration so I applied to several schools and selected to go to the University of Chicago.

Q. And what were – what year were you graduated from the University of Chicago?

A. It was a two-year program, so I graduated in 1998.

Q. And did you work after graduating from the University of Chicago?

[368] A. I did.

Q. What did you do?

A. I took a full-time position in New York with who was known as Solomon Smith Barney back then, and it was a division of Travelers Group. The company then merged with Citigroup in 1999, and it became known as Citi.

Q. Then you started working for Citi as part of that merger?

A. Yes.

Q. How long did you work at Citigroup?

A. Approximately from 1998 through 2007, so about nine years.

Q. So when you first started working for Citigroup, where were you located at that point?

A. I was located in New York, and the first year was what was known as a generalist year – they allowed to you rotate into three different investment banking groups, four months each. So I got a chance to do rotations, in San Francisco as well as in London.

And then, when I got back, I was offered full-time positions in various groups and selected to go to the San Francisco Technology Group.

Q. Approximately what year did you begin in the San Francisco Technology Group?

A. In 1999.

Q. And how long did you remain in the Technology Group in [369] San Francisco?

A. I worked in that group – they eventually to Palo Alto. But through the Internet bubble, which I believe was in or around the middle of 2002.

Q. So what happened in 2002? Did you switch to another group?

A. I did. I was asked if I'd join the Healthcare Group within Citigroup at that time and specifically focus on biotechnology and pharmaceutical companies.

Q. And where were you located at that point when you began in the Healthcare Group at Citi?

A. Initially, I was located again in Palo Alto. Then we moved to San Francisco. And then finally, was at the end of '03, was asked to move to New York.

Q. Okay. So by 2003, you were located in New York, the Healthcare Group at Citi; is that correct?

A. Yes.

Q. And do you recall your home number in New York during that time period?

A. I do. It's 646-414-1525.

Q. And what was your title at that point in 2003 in the Healthcare Group?

A. I was vice-president of healthcare investment banking.

Q. And over time, did that title change? Did you move to the next level?

[370] A. Yes, I did.

Q. And what is that next level?

A. The next promotion I received was to director of investment banking.

Q. So during the period approximately 1995 to 2004, did you ever observe your brother, Michael Kara, abuse alcohol or drugs?

A. Yes, I did.

Q. Tell me about that. What did you observe?

A. It was around the time of 1999 or 2000. And I was living in corporate housing over at 1000 Chestnut here in Russian Hill. I received a phone call from my doorman indicating to me that someone who didn't look well said he was my brother, Michael Kara, and that he was asking to be let into my apartment.

Q. And what did you do, Mr. Kara?

A. I left my office, which was on California Street at that time, and I drove home. Drove home.

Q. And what did you do next?

A. I saw my brother in my apartment, and he didn't look very well. So I took care of my brother.

Q. And what happened after that?

A. After I – the next morning, when I felt he was okay, he promised that he was going to take care of himself, and I called his wife and called my dad to let them know that he was [371] safe. And he told me he would take care of himself.

Q. While you were a vice-president in healthcare investment banking and then a director, what were your duties and responsibilities at the Citigroup?

A. I really – I categorize my duties as an officer, which was part of a vice-president, into two categories. The first one was execution of transactions for corporate clients. And by transactions, I mean financings for companies. Whether they issue stock or issue bonds, we were the underwriters for those offerings.

And I was also then, as part of my responsibilities, asked to call on the companies that were assigned to me and start to begin to develop relationships with the CEOs and the CFOs and senior members of the team.

Q. And when you say "call on", what do you mean by that term?

A. I think it's analogous to like a stockbroker. They're given clients or assigned client names, and you begin to develop relationships with them in the hopes that you can garner mandates or engagements in order to execute transactions for them. So that Citigroup can garner fees from those transactions.

Q. And what do you mean by a mandate?

A. A mandate is when a corporate client actually assigns Citigroup or assigned a specific team within Citigroup to work [372] on its behalf, either in the form of an underwriting or a merger or acquisition type of situation.

Q. So Mr. Kara, what were some of the companies that you called on during at that time period?

A. I, as I had mentioned, pharmaceutical and biotechnology companies. Some of my pharmaceutical clients were Merck, Schering-Plough; and biotechnology companies in the Bay Area, they were Genentech, Gilead Sciences. Endo Pharmaceuticals – not here in the Bay Area, but other ones – as well as Protein Design Labs and Pain Therapeutics.

Q. And how would you generally generate fees with these companies?

A. Again, you would work towards solidifying a relationship with the company. And when a – you would, what we call, pitch ideas or market ideas to the company, about raising money, about buying other companies. And the companies, they're all dynamic and involved, so at certain times their board members and senior decision-makers decide to conduct a transaction, and they engage the help of Citigroup.

Q. And how would you define confidential nonpublic information?

A. It's information that's generally not known to the large investing public, and it's information that, if disseminated to the large public, could have a significant impact on the stock price of a corporation.

[373] Q. And would you come across nonpublic confidential information in the course of your job at Citigroup?

A. Yes, I would.

Q. And did Citigroup provide you training on how to handle confidential nonpublic information that you received from clients?

A. Yes, they did.

Q. Can you describe generally some of the types of training that you received at Citigroup?

A. The training was immediate, and – if not even before we had an opportunity to take our seats and begin working on behalf of clients. So as a generalist, they conducted a large, six-week training program, and at least three or four days during one week, we went through compliance issues and expectations of employee conduct and how to treat confidential information.

And then every year thereafter, we would have very regular training and reminders about how to conduct yourself and how to hold confidential information closely.

Q. I'd like to show you now what's been marked as Exhibit 21, if you could, please, locate it in the

exhibits that I've given you. And take a moment to look at it and let me know if you recognize that document.

A. Yes, I do.

Q. Mr. Kara, what is Exhibit 21?

[374] A. This is looks like the employee – what we call – commonly called an employee handbook or code of conduct for Citigroup employees.

MS. DOWLING: Your Honor, I'd like to move Exhibit 21 into evidence.

MS. SHIFMAN: Objection, your Honor, hearsay.

THE COURT: Objection overruled.

MS. SHIFMAN: I'm sorry, I withdraw the objection. Excuse me.

THE COURT: Okay. It is admitted. (Trial Exhibit 21 received in evidence)

MS. SHIFMAN: Thank you.

MS. DOWLING: Thank you, your Honor.

BY MS. DOWLING:

Q. Mr. Kara, if you could please turn to Page 2 of Exhibit 21.

A. Yes, Ma'am.

Q. At the top, you see that there's a date.

Maybe if you could highlight or blow up that portion so the jury can see it.

What is the date at the top of this page?

A. It's May 2006.

Q. And were you an employee of Citigroup in May of 2006?

A. Yes, I was.

Q. So were you subject to this code of conduct?

[375] A. Yes, I was.

Q. If you could turn to Page 17, please.

A. Yes.

Q. And maybe, Maryam, if we could blow up the heading, Insider Trading Area?

Was this part of the policy at Citigroup?

A. Yes, it was, Ma'am.

Q. And if you could please read that first paragraph.

A. Sure.

"Citigroup policy and the laws of many countries prohibit trading in the securities (including equity securities, convertible securities, options, bonds, and any stock index containing the security) of any company while in possession of material, nonpublic information (also known as 'inside information')

regarding the company. This prohibition applies to Citigroup securities as well as to the securities of other companies. It applies to transactions for any Citigroup account, client account or personal account. A personal account is any account in which you have a financial or beneficial interest, or the power to affect or ability to influence trading or investment decisions, either directly or indirectly. Personal accounts typically include accounts of spouses, domestic partners, children and other members of your household, and accounts over which you have investment discretion."

[376] Q. Mr. Kara, in your own words, what did this mean to you?

A. Almost what it says, Ma'am, if I could just paraphrase it. It is that we are prohibited, that Citigroup employees were prohibited from using information that they obtained as part of their work and that was confidential and material, to transmit that information or disseminate it to people outside of Citigroup.

Q. Thank you.

And, Maryam, if we could go back to the full page, I want to focus.

Mr. Kara, if you could focus your attention now on the first full paragraph under investments and outside activities on the right side of the page. Do you see that?

A. Yes, I do.

Q. If you could just read that first paragraph, Mr. Kara?

A. Sure.

"It is also illegal in many countries to 'tip' or pass on inside information to any other person if you know or reasonably suspect that the person receiving such information from you will misuse such information by trading in securities or passing such information on further, even if you do not receive any monetary benefit from the tippee."

Q. Did you understand this policy to apply to you?

A. Yes.

Q. Can you give the jury some example of what, in your own

* * *

[383] **A** Yes.

Q Is that likely to be material information?

A Yes, it is.

Q Why is that?

A Just to put it in simple terms, if a company is interested in buying another company, typically they will purchase that company for a substantial premium over its certain share price. If that information is disseminated to the general public, it will likely cause

a significant appreciation in the stock of the company, of the target company.

Q Okay. And now I'm going direct your attention to the middle portion of the page, under "Prohibition on Trading on or Tipping Material, Non-public Information."

(Document displayed)

MS. DOWLING: Thanks, Maryam. And if you could highlight, please, the third bullet.

(Document highlighted)

BY MS. DOWLING:

Q And if you could read that, Mr. Kara, please?

A (As read)

"If you trade on or tip material, non-public information as an employee working in the securities industry, you can expect to be held to a high standard in determining whether you knew or should have known that the source of the [384] information was a corporate insider or some other person acting improperly (i.e. acting in breach of a fiduciary, statutory, or other legal duty)."

Q And Mr. Kara, what is your understanding of what "tipping" means?

A Tipping is providing material, confidential, non-public information to someone for their benefit.

Q Okay. And you can set that exhibit aside, please, and we are going to turn now to the next exhibit, Exhibit 25.

Take a moment and got that exhibit out, and let us know when you have looked at it, please.

A Yes.

Q And, do you recognize this document, Mr. Kara?

A I do.

Q And, could you identify what this document is, please?

A This, again, is a memorandum to all CIB employees. That's corporate and investment banking employees. And again, it's from our legal team.

And it's a reminder about our obligations to safeguard and protect material non-public information.

MS. DOWLING: Your Honor, I move to admit Exhibit 25.

MS. SHIFMAN: No objection, Your Honor.

THE COURT: 25 is admitted.

(Trial Exhibit 25 received in evidence)

(Document displayed)

[385] **BY MS. DOWLING:**

Q Mr. Kara, we're just going to look at one paragraph on this page. If you could look at the third paragraph.

(Document displayed)

Q If you could read that, please?

A (As read)

"You are reminded that you may not misuse confidential or material, non-public information regarding an issuer's securities. Trading on material, non-public information, or conveying such information to anyone improperly "

Otherwise known as "tipping . "

" violates firm policy and may constitute a violation of federal or other insider trading laws, European regulations on market abuse, or other applicable laws."

Q Thank you, Mr. Kara. And you can set that exhibit to the side, please.

Mr. Kara, while employed at Citigroup, did there ever come a time when you tipped, when you shared material non-public information with anyone outside of Citigroup?

A Yes, there was.

Q And what did you do?

A Um, I began sharing material non-public information with my brother, Mounir Michael Kara.

Q And why did you do that?

A It happened, ma'am, over a series of years. And, I would [386] call it sort of an evolution of the way that I was transferring information to my brother.

When I entered into the healthcare investment banking group in 2002, I didn't have any healthcare experience. And specifically, I knew nothing about science, and knew nothing about the general healthcare industry. My brother had a scientific background, and – an undergraduate degree in chemistry and a toxicology background that I thought would be useful in helping me learn about the drugs and about the company that I was now going to be responsible for.

At that time, I was a vice-president. And as I had mentioned, I was an officer of the corporation. And a lot of the meetings that I would be asked to begin really involved CEOs and CFOs of large public corporations. And I didn't want to come across as somebody that didn't have any knowledge.

So, I began sharing with my brother information about the companies, information – and asking him questions about the drugs, how they worked, how the science behind it worked.

And, at that time, gave him clear instructions that information that I was sharing with him was

confidential, and that I was really just trying to gain an industry knowledge through his help.

What I would call Phase Two of that would be that those conversations, unfortunately, became much more relevant in our life because my father was diagnosed with cancer in late 2003, [387] early 2004. And, in fact, he was diagnosed with two different types of cancers. Non-Hodgkins lymphoma, and then glioblastoma multiforme, which is a terminal form of brain cancer.

My discussions with my brother then began to gravitate much more towards companies that were focused in the oncology and pain-management space. And I was looking for – we were looking, my brother and I, for companies that had different treatment options that could potentially benefit my dad.

As it turned out, a lot of the companies that I was working with and was a lead coverage officer for had drugs that were going to be treated – that could help my dad. And I, in fact, contacted some of those companies to see if we could use compassionate use for some of the medications for my dad, because we were trying to save his life.

Q Okay.

A And, and last, the third evolution is after all of that, my brother, once – after my father died, my brother's discussions began to become much more targeted. And began to be much more focused around

asking me about – specifically about companies and more towards a business end of it.

And I confronted him, and asked him point-blank, "Are you trading in these companies?" And he flat-out denied it, and he swore on his daughter's life that he wasn't trading in it.

It then – but he – he would go away for a while and not [388] ask me questions, and then he would come back and he would ask me questions again. I tried to deflect it. It got to the point where I told my wife no longer to take his calls at home. Tried to avoid his phone calls, wouldn't reply to his e-mails, because I just didn't want to talk to him.

It got to the point where it was so persistent and so nagging that to get him off my back, I finally caved in. And that was the third what I would call phase of the type of information that I was sharing with my brother, where I knowingly tipped him, to get him off my back, and to benefit him.

Q And, you wanted to help your brother, sharing that information?

A Yes, that definitely was – I knew that by tipping him, that I was helping him.

Q And in helping him, you were helping yourself. Right?

A I –

MS. SHIFMAN: Objection; leading.

THE COURT: Overruled.

THE WITNESS: I – I just didn't know – I repeatedly asked him to please just leave me alone, and that what we were doing, that – I became very uncomfortable with it. And, he wouldn't stop. And, yes. The way that I thought I was helping myself was just by getting him off my back, and fulfilling whatever needs he had. You know, and I expected [389] that he was likely trading on it.

BY MS. DOWLING:

Q And some of the information that you and your brother exchanged, did that help you in a business development capacity, with regard to the companies you were calling on?

A Initially it did. His information was incredibly helpful. And I – I was kidding myself in thinking that what I was doing was okay, because I assumed, oh, I'm likely benefiting Citigroup because now I'm becoming this much more intelligent officer, and I can have these fruitful scientific discussions with the officers of these public corporations.

And I was completely naive and gullible to assume, first and foremost, that that was okay. But, second, to continue to do it, after, you know, after the passing of my dad and at the point where I noticed that my brother's questions were becoming much more targeted.

Q And in that Phase Three, as you labeled it, in that time period, you knew that your brother was trading on these companies. The stocks.

A He never disclosed to me that he was trading, but I fully expected that he was trading it, because the types of questions that he asked indicated to me that it was – it was the behavior of somebody that was trading in security – the questions were indicative of someone that was trading in securities. I didn't want to ask him, you know. When I did [390] ask him, he denied it.

But at the point where I decided to give him information with the intent to help him trade I didn't want to ask him again, "Are you trading," because I knew what the answer was going to be, and that was going to be "Yes."

Q What were some of the biotech companies and drugs that you discussed with your brother, in order to learn more about the biotechnology area?

A Initially my main focus was really in the – and it graduated with my dad or it progressed with my dad's illness. I focused on oncology companies, and focused on pain-management companies, and large pharmaceutical companies.

So, around the time of my dad, we looked at a company called American Pharmaceutical Partners, or APPX. And they had a lead drug called Abraxane, which helped reduce the cytotoxicity or the toxic effects of chemical therapeutic drugs to patients, so

that patients could get more drug without having all of the residual harm that comes with traditional chemotherapy.

I discussed Genentech with my brother, because my father was on one of their lead drugs called Rituxan for non-Hodgkins lymphoma. That was part of his therapy. I also discussed Schering Plough's drug called Temodar, which was very novel and still in discovery, in the discovery stage. And it was the first-of-its-kind oral treatment for patients with brain [391] cancer, and was enabling patients to have several months of extended survival who are terminally ill.

We also discussed Endo Pharmaceuticals, which was a client of mine. And they had several medications that my family eventually used, including Lidoderm, which was a patch for low back pain. And they also had end-of-life pain, for my dad when he was terminally ill.

Q So some of the companies that you discussed with your brother, they either were or became Citigroup clients? Is that correct?

A Yes. Many of them – I would say almost all of the companies that I discussed with my brother at – didn't necessary – weren't necessarily companies that we earned fees from, but they were almost all companies that we spoke to. And had an active dialogue with.

And, we more than likely received material non-public information from those companies.

Q And why were you comfortable sharing non-public material information with your brother?

I guess that kind of dovetails with the Phase Two time period you were talking about earlier.

A Yeah. Again, I apologize for being what I would call incredibly naive, relaxed, unguarded. But I just never could imagine that my brother would take it upon himself to trade in the companies that I was covering and had – you know, we [392] share the same last name, he knew how important the job was to me, how much I cared about it.

And, when I suspected it, and asked him, I warned him initially, and then repeatedly told him that the information was confidential. And when I asked him, "Are you trading?" he swore to me that he wasn't.

Q Mr. Kara, you spoke of your father's illness. Did he pass away at some point?

A He did.

Q And did your family do anything to commemorate your father's life?

A Yes. Shortly within what we call a 40-day mourning period, we had a memorial service for my father after his funeral, which was on November 17 of 2004.

Q And do you recall Mr. Bassam Salman attending any of these events?

A I believe Mr. Salman attended my father's memorial service.

Q And did Mr. Salman visit with your father before his passing?

A Yes. They loved my dad, and my father loved them very much. And yes, I think he came to – when my dad was in very critical condition, came out to see if he was okay.

Q Mr. Bassam Salman visited your father when he was ill?

A Yes, yes.

[393] **Q** And at this point before your father passed away – in 2004, was it?

A Yes.

Q At this point, you had known Susie Salman for a couple of years at that point. You said you met in 2002, correct?

A Yes.

Q So by the 2004 time period when Mr. Salman is visiting your father who's ill, did the families know each other quite well at that point?

MS. SHIFMAN: Objection; calls for speculation.

THE COURT: Overruled. You may answer, if you know.

THE WITNESS: And I'm sorry, ma'am. Because of the objection, I lost the question. Can you repeat the question for me?

BY MS. DOWLING:

Q Yes, I can. So, in 2002, you and Susie Salman met, correct?

A Yes, we did.

Q And you and Susie Salman actually met at the – the initial meeting was at Mr. Salman, Mr. Bassam Salman's house. Correct?

A Yes.

Q So you met them at the same time.

A Yes.

Q So by 2004, moving forward in time, your families, the [394] Kara family and the Salman family, they have gotten to know each other very well. Correct?

A Yes. There were numerous opportunities. And in fact, as I mentioned, we got engaged in 2003. And we had to postpone our wedding three times because of my father's illness.

And, our original wedding date was August of 2004. And, at that point, my dad was in a wheelchair, and couldn't walk. So we postponed the wedding. And

then, it's customary to wait an extra year, so we didn't get married until July of 2005.

Q And, did Mr. Salman know what you did for a living?

MS. SHIFMAN: Objection; calls – this witness can't possibly know what's in the mind of somebody else.

THE COURT: Overruled. You can answer, if you know.

THE WITNESS: I don't have a specific recollection of talking to Mr. Salman about being an investment banker. I do know my brother announced that to everybody, and it was actually my surprise, at my wedding.

But, I had told Mr. Salman that I worked generally in the finance industry. For Citigroup. And that, you know, my responsibilities were really to help companies raise money. I did not get into specific details about what I did.

BY MS. DOWLING:

Q So he – you spoke with Mr. Salman about being in finance in general, Citigroup in particular. And that you worked on financing? Is that –

[395] **A** Yes.

Q That's correct?

A Yes.

Q But you didn't use the term investment banker (Indicating quotation marks), is that correct?

A That's correct.

Q Why didn't you use that particular term to describe to Mr. Salman what you did for a living?

A I – I didn't like to tell people what I did for a living because I didn't want people to make assumptions about me as a person, and about my income level, or have ideas in their mind about what kind of a person – you know, even back in 2002, investment bankers had terrible reputations. So, I tried to not share with anybody what I did for a living. I didn't want them to make any assumptions about me.

Q Okay. And, Mr. Kara, how did your brother Michael react to your father's death in 2004?

A Much like the whole family. We were all extremely depressed, but I think my brother was suicidal at the time, and took – took my father's death very, very, very – it deeply affected him.

Q Were they very close?

A Yes. Very, very close.

Q Did he help care for your father in his later years quite a bit?

[396] **A** My brother did, yeah. And my brother – and my dad really – what I've come to know, my dad shielded us very much from the – the issues that

involved my brother. So, it was a mutual caring relationship.

And, you know, my brother had my dad working with him, as part of his remediation company. And, you know, my dad adored Mounir, and Mounir adored my dad.

Q And did Mounir take on some financial responsibilities for your dad during that time period?

A I believe he did. He was always very generous with his parents, and with family. And my brother – I – I came to share in some of those responsibilities.

But yeah, there was a point where I knew my brother had been helping my family for – for an extended amount of time. And I talked to him, and I told him I wanted to participate in that. So –

Q And had Mounir in the past – Michael, in the past, had he helped you financially when you were growing up?

A Yes. I think, you know, to some extent, he did help finance part of my business school education.

Q You indicated earlier that your brother was suicidal at the time of your father's death. What do you mean by that?

A It was around the Christmas holidays of 2004. And it was within a month of my dad's funeral. I was at my brother's house. And, he came out of his room, and sat down on the [397] couch next to me.

And as I saw him walking in the room, he had a gun in his right hand, and he had a clip in his left hand, but he also had a clip in the gun. And he sat down next to me, and he just broke down and began to cry. And put the gun in his mouth. And said, "I – I want to be with Dad."

Q So, did you know that this was all about your father's death?

A That's how I – yeah. That's how I interpreted it.

Q So, what did you do in response?

A I grabbed the gun out of my brother's hand; I put it to the side. I hugged my brother. And we started crying together.

Q Did you ever see Michael do anything along those lines after that point?

A No.

Q Did you ever observe him to do or say anything else that caused you to be concerned about his well-being after that point?

A Um, up to that point?

Q After that point.

A No, I don't think so.

Q Mr. Kara, let's switch topics. Earlier you had mentioned a company called Protein Design Labs. What is Protein Design Labs?

[398] **A** It was a biopharmaceutical company that was based here in Fremont, California, and focused on developing drugs to treat autoimmune diseases and anti-inflammatory diseases.

Q And was Protein Design Labs a Citibank client?

A Yes, it was.

Q And did you personally do any work for Protein Design Labs?

A Yes, I did.

Q What kind of work did you or you and Citigroup do for Protein Design Labs?

A We executed several transactions for the companies. Primarily around financings. And we also advised them on mergers and acquisitions.

Q And over what time period did you work with Protein Design Labs?

A I think it was one of the first accounts that I was assigned, so I would say in that 2002-2003 time frame, all the way through my departure from Citigroup, so the middle of 2007

Q So this would have been one of the early companies that you called on?

A Yes.

Q To establish a relationship with?

A Yes.

Q And it worked because you did financings with them in the

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[401] **A** Yes, I was.

Q And at the top of the memo it says "CONFIDENTIAL," in bold letters. Why is that?

A Again, this is in relation to a potential financing of an acquisition, so that type of information would be treated as confidential material, non-public information within the team.

Q And can you describe again what's being conveyed by this memo?

A Yes. This is a description of the financing proposal that we have been asked to give to Protein Design Labs and with respect to the acquisition of ESP Pharma.

Q And what is the date of this memo, Mr. Kara?

A It looks like January 11, 2005.

Q If you look at the very last paragraph of the memo, maybe Maryam could blow that up or enlarge it, if you could read that sentence, please.

A (As read):

"The Citigroup team is in dialogue with PDLI about acting as a financing agent for any contemplated

transaction. We will be meeting with the PDLI management team on January 12, 2005 to discuss the potential financing alternatives."

Q And to your knowledge, did that meeting, the January 12, 2005 meeting referenced, did that ever happen?

A Yes, it did.

Q And how do you know that?

[402] **A** I was the person that actually set up that meeting.

Q And who, and who –

A And I also attended it.

Q Oh, you attended it? And who else was at the meeting?

A I had invited a person from equity capital markets, my partner there, Bruce Wu. I had also invited Mike Simon, the head of our life sciences team. Mariano Gaut was there, equity capital markets partner. And also a junior associate on the account.

Q And, what was the purpose of that meeting?

A The purpose was really for – from my perspective, it was for us to express our interest to the CEO of PDLI that we would like to act as their financing agent with respect to ESP Pharma.

At that point, ESP Pharma was a private biotechnology company that Citigroup was engaged separately to sell. And, PDLI was very interested in buying the company. So, we had gotten released from conflicts and were able to act both as the seller of the private company, and as well as a potential financing agent for the buyer of that company.

Q And what happened at that meeting with the CEO?

A We expressed to him our interest in working with him, regarding that transaction. And, he conveyed to us in his interest – his interest in actually being the party that wins the – the auction process for the sale of ESP Pharma.

[403] **Q** Ands did you take any steps to help win that business at that meeting?

A I did.

Q What did you do?

A I knew that the CEO of the company enjoyed white wine. So at that time I was not a wine connoisseur, and my brother knew a lot of about wines, so I'd asked him for his help in obtaining a couple of bottles of white wine that I took to the dinner for the CEO.

Q And where did you get the wine?

A I believe we got it in San Francisco, at one of the local wineshops here along the pier.

Q Do you recall what kind of wine you got?

A Yes, two bottles of white. One was a Kistler Chardonnay, and the other one was a Marcassin Chardonnay.

Q I take it, those were nice wines?

A They were expensive. So, I hope they were good.

Q And was PDLI's potential acquisition of ESP Pharma and Citigroup's provision for any financing of that deal all non-public information at that time?

A Yes.

Q And was material information?

A Yes.

Q Why is that?

A Because, had anyone – had investors realized that PDLI [404] was contemplating a $500-million-plus size acquisition along with a related financing, that definitely would have caused a reaction to PDLI's stock price.

Q You told us that Michael had helped you pick out the wine for this important meeting you were having with the CEO. Did you and Michael discuss PDLI?

A Yes. We discussed – we had discussed PDLI as early as back in 2002, and Michael knew that I was developing a close relationship and a friendly

relationship with the CEO of the company. And he knew about the dinner.

He asked me what the dinner was about. And I said, you know, "Please keep me in your prayers, and I hope we can win this transaction because it will mean a significant amount of fees for Citigroup, and hopefully it will help me in my career."

Q And after the meeting, did you follow up with Michael and continue to provide him information about the transaction?

A I did. I thanked my brother for the bottles of wine, and told him that the meeting went really well, and I hoped that a transaction would be consummated.

And then after that, I regularly updated him – he would call me and ask me, "How are things going? How's work?" You know, something to that effect, often. And I would feel extremely comfortable in sharing updates about my work and about these types of projects for clients that I was working

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[412] at Sam's.

Q And did you get that information from Tiger or from –

A From, I think, Susie.

Q From Susie? Okay. All right, thank you. Mr. Kara, did you share any confidential information about Pain Therapeutics with your brother, Michael?

A I did.

Q And what information did you share with your brother, Michael?

A I told him about the upcoming follow-on transaction that we were expected to have should the Remoxy data be positive.

Q Let's switch now to another company called Bone Care International.

A Yes.

Q Are you familiar with this company?

A Yes, I am.

Q And were you the person at Citi that was responsible for working with Bone Care International?

A No, I was not.

Q And who was, to your knowledge?

A It was a colleague of mine named Henry Schwake.

Q Were you aware that Bone Care was a Citigroup client?

A Yes, I was.

Q And, how were you aware that Citigroup had Bone Care as a client?

* * *

[415] **Q** You said earlier that you were aware that Bone Care International was a client of Citigroup. In the April 2005 time period, were you specifically aware that Citigroup was engaged on a transaction for Bone Care International?

A No, I was not. I don't recall, sitting here today, knowing that. But, it's the kind of thing that I could have very easily learned.

Q So, do you recall having any conversations with your brother, Michael Kara, about Bone Care International?

A No.

Q Would you exclude the possibility that you may have had conversations with Michael Kara about Bone Care International?

A I can't – I can't exclude it.

Q I want to turn now to another company, called Endo Pharmaceuticals. Are you familiar with a company called Endo Pharmaceuticals?

A Yes, I am.

Q And what is Endo Pharmaceuticals?

A I'm sorry, we're done with –

Q Yes, you can set that aside.

A Endo Pharmaceuticals is a specialty pharmaceutical company that focuses on developing drugs in the pain management sector.

Q And did Citigroup do any work for Endo Pharmaceuticals?

A Yes, we did several transactions for them.

* * *

[420] Pharmaceuticals.

Q If we could move to about halfway down the page, please.

(Document displayed)

Q Okay. Do you see in the middle of this enlargement it says "Project Name, Project Everest Tibet"? What does that mean?

A As part of our safeguarding policies as Citigroup, we would assign project names to merger and acquisition assignments to protect the integrity of the information that we were – that we had obtained.

We oftentimes would take a look at the first initial of each of the companies that are involved. And we would create project names based on that. So "Everest" was for Endo Pharmaceuticals, and "Tibet" was for TEVA pharmaceuticals.

Q And you said, "protect the integrity of the information." What do you mean by that, Mr. Kara?

A Again, it's a safeguarding technique that we would use, because our goal was to not have people that didn't need to know about the transaction even within Citigroup know about it.

So we would create project names, to not share what the transaction was about with others, or who the parties involved were.

Q And was TEVA's potential acquisition of Endo Pharmaceuticals confidential information as of June 10, 2005?

[421] **A** Yes, it was.

Q Was it material information?

A Yes, it was.

Q Why is that?

A Because had a larger public audience learned that at the TEVA Pharmaceuticals was interested in buying Endo, it would have likely created a significant stock price jump in Endo Pharmaceuticals' stock.

Q Did you discuss TEVA's potential acquisition of Endo Pharmaceuticals with your brother, Michael Kara?

A Yes, I did.

Q Can you please describe the nature of those conversations with your brother?

A It was – I was sitting at his kitchen table, going through – or learning about the transaction in

California. And had learned – gotten a call from several deal team members that Endo had entered into dialogue with TEVA pharmaceuticals about potential e-mail being sold to them.

So, I took the call from my brother's house. He overheard it. Came to me and said something to the effect of, "Hey, what's going on?"

And I said, "Great news " I would have said something to the effect of "Great news, looks like Endo may be sold, hopefully to TEVA. We'll see where it goes."

Q Did Michael ever tell you that he was buying or selling [422] Endo securities?

A No.

Q You can set that exhibit to the side, please.

(Request complied with by the Witness)

Q Mr. Kara, I want to turn back to the – the time of your wedding. What was the date of your wedding?

A July 9, 2005.

Q And where were you married?

A We were married in Chicago, Illinois.

Q I would like to show you now what's been marked as Exhibit 89. If you could take a look at that, and let me know if you recognize it.

(Request complied with by the Witness)

A Yes, I do.

Q What is that?

A That is a picture of some of our wedding party in front of the church that my wife Susie and I were going to be married at.

Q And is it a fair and accurate depiction of your wedding celebration, on or about July 9, 2005?

A It is a very small portion of a large wedding.

Q But, accurate of the small portion?

A Yes. Yes.

Q Okay.

MS. DOWLING: Your Honor, I would like to move [423] Exhibit 89 into evidence.

MS. SHIFMAN: No objection, Your Honor.

THE COURT: Thank you. 89 is admitted.

(Trial Exhibit 89 received in evidence)

(Document displayed)

BY MS. DOWLING:

Q Mr. Kara, where are you located in this photo?

A I was the smiling person in the middle of the photograph, with a white tie, and a white flower on my lapel.

Q And is your brother Michael in this photo?

A Yes, ma'am.

Q Where is he located?

A He's directly across from me. And I don't know if the jury can see it. There's a little bit of a red outline of his tie. You've got his profile kind of turned towards the audience, but he's the closest male person in front of me.

Q Where the arrow is now pointing (Indicating)?

A Yes, ma'am.

Q Okay. And if you could look at the back of the photo, there's a yellow circle around an individual. Do you recognize that individual?

A Yes, ma'am.

Q Who is that?

A That's my brother-in-law, Bassam.

Q And, during your wedding celebration, did you observe [424] your brother Michael and Bassam Salman interact?

A I did.

Q And what did you observe?

A And this is around the time of the wedding celebration, ma'am?

Q Yes, during the wedding celebration.

A So we had a – numerous times to all get together. I mean, it was celebratory, and it was getting family – all about getting the families together. So we had a cruise dinner after our rehearsal dinner that we hosted for very close family and out-of-town guests. And, we also had a dinner the night before the wedding that we all got together at.

And, on the day of the wedding, my brother, acting really on behalf of my dad, or as representative of the elder in the family, would have gone to my brother-in-law's house – Ghazy Salman, because he's the oldest brother, to go and request their sister's hand, my wife, Susie, in marriage for a final time, and have the families agree to that wedding.

Q So this became your brother's duty, because your father had passed away?

A Yes.

Q So he went to Susie – your wife's – older brother's house?

A Yes.

* * *

[429] e-mail that we looked at earlier, with your brother, Michael?

A Yes. Yes, it is.

Q And you indicated earlier that your brother had taken on the role of your father during the time of your wedding.

Were there other cultural reasons why your brother would have interacted with Bassam Salman and the Salman family?

A I have – I think it's customary in the Middle Eastern culture that when you get married, it's not only a union of the two people in the party, but it is also a union of the families.

So part of our traditions, in order to finally get married you need not only the sign-off of the bride and groom, but you need the sign-off of the family to agree to accept the marriage.

Q You can move that exhibit to the side.

MS. DOWLING: And we're finished with that exhibit, Maryam. Thank you.

BY MS. DOWLING:

Q Mr. Kara, who was the best man at your wedding?

A It was my brother.

Q And did he give a speech at your wedding?

A Yes, he did.

Q And did he talk about your job during that speech?

A Yes, he did.

Q What did he say?

[430] **A** I was actually very surprised. But, he put significant emphasis on my career, and said I was an investment banker and, you know, not just a normal guy, that I was an investment banker, whatever that meant to him. And, took me a little bit by surprise.

But, he was talking a lot about my career and about the accomplishments that I had. And I know he meant it in a way that he was very proud of me. But, it was something that kind of, you know, took me back, took me a little bit by surprise.

Q So he was proud of you, your brother?

A That is how I interpreted it, yes.

Q Okay. I want to jump forward now to the beginning of 2006 time period.

A Uh-huh.

Q Are you familiar with a company called Andrx Corporation?

A Yes, I am.

Q And what is Andrx Corporation?

A Andrx Corporation was a specialty pharmaceutical company that was based here in the United States.

Q And in the January 2006 time period was Citigroup doing any work for Andrx, or relating to Andrx Corporation?

A Yes, we were.

Q And who did Citigroup represent during that time period?

A We were representing a company called Wockhardt Pharmaceuticals. It was an Indian specialty pharmaceutical [431] company. And we were representing them in the potential acquisition of Andrx.

Q And did you have any role in working with Wockhardt?

A Yes, I did. I had just previously concluded working with them for the prior six months on an unsuccessful attempt to buy another specialty pharmaceutical company, called Alpharma.

Q If you could turn now to Exhibit 4, please. Take a moment to look at it, and let me know if you recognize it.

A Yes.

Q And what is this document, Mr. Kara?

A This is a series of e-mails among Citigroup employees that were on the working group team for Wockhardt Pharmaceuticals. And, were looking at potential acquisition of Andrx.

Q And did you receive this e-mail?

A Yes, I did.

Q And what is the date of this e-mail?

A The latest one was on January 11, 2006.

MS. DOWLING: Your Honor, I would like to move Exhibit 4 into evidence.

MS. SHIFMAN: Continuing objection, Your Honor.

THE COURT: All right, objection overruled. 4 is admitted.

(Trial Exhibit 4 received in evidence)

(Document displayed)

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[435] **Q** If you could read that paragraph, please.

A (As read)

"W is paranoid about confidentiality – B of A/Andrx have indicated they would break off discussions in the event of a leak."

Q And what did you understand that to mean, Mr. Kara?

A Quite simply, what it said. Bank of America is the reference to "B of A." They were Andrx's advisor. That they wanted to keep this, the knowledge of – of Wockhardt's interest in Andrx very confidential, and

that they would potentially break off the deal in the event of a leak.

Q And did you consider this information to be confidential?

A Yes.

Q Non-public?

A Yes.

Q And material information?

A Yes.

Q If you can turn back to the first page, please. (Request complied with by the Witness)

Q You indicated that this first e-mail had been forwarded to Ross MacIntyre. And, the first paragraph says (As read): "re confidentiality: we should start using project name and code names on all e-mails and memos immediately."

What did you understand that to mean?

A As I've mentioned today, ma'am, typically when we are [436] mandated on a merger or acquisition, we, as a – as a proper safeguard policy, would assign a project name with code names for the target and the acquirer in order to protect the confidentiality of that information. And to make sure that only people who needed to know even within Citigroup actually knew about the deal.

Q And did you continue to work on Wockhardt's potential acquisition of Andrx after January 11th?

A I did.

Q And what happened?

A Oh, excuse me. After – after January 11, I did just for a short time, and then I was actually asked to no longer work on the account.

Q So you worked on it some period past January 11th, and then you no longer worked on the transaction?

A I was – I helped – what ended up happening was I was – Citigroup had gone and hired a new person that was going to be focused on the specialty pharmaceutical sector.

Q Uh-huh.

A His name was Dung Nguyen. And Trygve Mikkelsen, the head of M&A, asked that Dung supersede me in terms of having primary responsibility on the account.

As the transaction went forward, and because of my prior knowledge of Wockhardt and its financing history and the complications associated with an Indian buyer buying a U.S.

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[440] **A** Yes. At Citigroup, it was.

Q And did you discuss being removed from this transaction with your brother Michael?

A I did.

Q And what did you tell him?

A I told him something to the effect that I was really pissed that I was taken off of this account. Specifically, that it was an account that I had busted my butt on.

And I had even been at home in December of 2005, previously, when we found out that we didn't win the last deal for Wockhardt, with a different pharmaceutical company. And so my brother was aware that we had lost a deal for Wockhardt as early as 2005. December of 2005.

Q And why did you have these discussions with Michael in early 2006 about this transaction?

A You know, as I described the nature of my relationship with him, he sort of – you know, he became very interested in my career, became very interested in how I was doing. And, he was somebody that I viewed as my friend, and somebody that I could count on to sort of vent about my career.

It just – I got so comfortable – naively comfortable and completely unguarded about my relationship with him, that it felt like there's no possible way he would do something. You know, that that – passing that information to him was like talking to a sound – you know, to a soundboard.

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[443] what I thought was "closed" meant "close."

Q And what is a lucite?

A A lucite is a little plastic trophy that investment bankers make when a deal gets closed. And we use it as a kind of an affirmation of the deal we just finished.

Q And, did that deal ever take place?

A Yes, it did. But it was with a different buyer.

Q Okay. Thank you. You can set that exhibit to the side, please.

(Request complied with by the Witness)

Q I want to turn now to another company, called United Surgical Partners International. Are you familiar with a company called United Surgical Partners International?

A Yes, I am.

Q Is it also known as USPI?

A Yes.

Q And what is it?

A It is a company that's in the healthcare services space. And was a client of Citigroup's.

Q And in the summer of 2006 time period, was Citigroup performing any work for USPI?

A Yes, they were.

Q What was it doing?

A Citigroup was representing their largest shareholder, a private equity firm, that was looking to potentially buy the [444] entire company of United Surgical Partners.

Q And were you working on this transaction for –

A No, I was not.

Q And how did you come to learn that Citigroup was advising a company on a purchase of USPI?

A I learned it from my colleague, Daniel Decelles.

Q And what was the company that was looking to purchase USPI?

A It was – I apologize, the name I'm blanking on, but it was a private equity – their lead shareholder was a private equity firm that was looking to buy the company.

Q And, about approximately when did you – do you recall learning about this transaction?

A I recall learning about it during the summer, kind of end of August, early September of 2006.

Q And did you have discussions with your brother about USPI?

A I did.

Q And what did you tell him?

A Initially, the discussions started over a CNBC show at his house and we were watching something about leveraged buyouts. And my brother became interested in understanding who conducted leveraged buyouts.

And I explained to him that a company like USPI which had a significant shareholder, the shareholder could come and do [445] an LBO. And the conversation really revolved around that shareholder, because at that time I had learned from my colleague, Dan Decelles, that he had been invited to join a car club that was being run by a gentleman named Dan Quealy, that was a partner of the private equity fund. And, that's how the conversation actually started.

Later, my brother, around the late August/early September time frame – it was on a visit at home – had approached me again. And he brought up the topic of United Surgical Partners, and said that he had been looking at it, and that the company looked cheap.

You know, I think I was really taken back by his comment. And at that point in time, it was very clear to me that my brother was looking at United Surgical Partners not for any other reason but as a potential investment.

Q And, what happened after Michael told you that USPI looks cheap?

A Um, I agreed with him. In fact, I had had a healthcare services report or a healthcare research report that included healthcare services in my bag, and I had seen that it was their top LBO pick.

So I gave my brother that research report, and I said that I learned that USPI was likely going to be acquired by a private equity firm.

Q And was that confidential information?

[446] **A** Yes, it was.

Q Was that material information?

A Yes, it was.

Q So, were you encouraging him?

A Um, I certainly was.

Q Any other confidential information you recall giving to your brother, Michael, at that time about USPI?

A Um, no, just that that – the way that I learned about it was that my colleague Dan Decelles was representing the private equity firm that was looking to acquire the company.

Q And, why did you give your brother a research report? What was the purpose of that?

A Um, the reason – excuse me. The reason that I gave him the research report was it was on my position, and I thought to myself that in the event that, you know, that it was a way for me to kind of

absolve myself of any guilt of confirming that a transaction was ongoing at Citigroup and a way that my brother could potentially get – a negative situation such as the one I find myself in right now ever arose, that he could have information that could back up that he had done his own research on it.

Q He would have something to point to?

A Yes.

Q As opposed to pointing to you as the source.

A Yes.

[447] **Q** So over what period of time did you provide Michael information about USPI and a possible USPI acquisition?

A From that September time frame my brother, you know, persistently and repeatedly called me. And again, I did everything I could to sort of deflect it.

And, when he would get me on the phone, I figured the only way to sort of get him off my back was just to say – not to take his call, and to tell him that my colleague, Dan Decelles, who was working on it was still busy. And by that, I was effectively telling him, "sit tight."

Q So "Dan is still busy" was code for "sit tight"?

A Yeah.

Q "Deal's still going on"?

A Yes, and I –

Q Just taking longer than originally planned?

A Yes. And I did that, really, from September all the way through the end of the year, through December.

Q And, what did you think your brother was going to do with that information?

A I expected he was going to likely trade on it.

Q And why did you disclose the confidential information about a possible USPI acquisition to your brother?

A Um, you know, I – I had gone through a gamut of things in my mind about the persistence and the nagging. And, I – I could see that my brother was going to be relentless, and I [448] was afraid of being detected. So I disclosed USPI to him as opposed to other companies that I was working on, to avoid detection. And I did it so I could help him.

Q And did you help yourself in that process, too?

A Standing here, sitting here today, I obviously didn't help myself. But I thought I could get him off my back. Yes.

Q The goal at that time –

A The goal at that time was to give me relief from him, and I felt that was the way to do it, was to give it to him. It would benefit him, and benefit me directly.

Q So you – you would disclose confidential information to your brother, Michael, about other companies, prior. How did the USPI situation differ from those earlier – confidential information that you provided?

A For me, again, naively, in looking back at it, I'm just so embarrassed with myself and my own conduct. And, should have known better. But, I didn't expect him to be trading on the information.

In the case of USPI, I – I fully expected that he was going to trade on that information. And it was when I gave him – when I finally gave him the information, it was my intent to benefit him. Before, I had no knowledge he was trading, I had no intention of him having any gains or – even at that time, I didn't know what he was – how he was going to benefit from it.

[449] But, just – USPI, I knowingly, willfully acted to benefit my brother.

Q The two of you had been watching a television show. Was it about USPI?

A It was about leveraged buyouts. And we were talking about people in my group, and private equity investors, and how much money they made. And the subject of Dan Quealy, who was the partner in that private equity firm, came up. And so the name USPI came out.

And he turned around and did his – you know, looked it up, and came back to me and said it was

cheap. You don't say that unless you're doing real work around a company.

Q But you proactively brought up the name USPI?

A Yes, I did.

Q I want to turn now to another company –

THE COURT: Let's take a break at this point.

MS. DOWLING: Yes.

THE COURT: Take another matter. We're going to need a 20-minute break this time, so get back at 3:15.

MS. DOWLING: Thank you, Your Honor.

THE COURT: Thank you.

THE CLERK: All rise for the jury.

(Jury excused)

(Recess from 2:54 to 3:19 p.m.)

(The following proceedings were held in the presence

* * *

[455] clear that it's us working for Schering Plough, I think it is important to initiate – for me to keep the meeting with Mark McDade, and initiate conversations on other topics than just that one assignment of Schering Plough potentially buying them.

Q And did you, in fact, keep that meeting with Mr. McDade?

A I did.

Q And you can put that exhibit to the side, too, please.

(Request complied with by the Witness)

Q Mr. Kara, in the early 2007 time period, did you – do you recall having any discussions with your brother Michael about a possible acquisition of PDL Biopharma?

A Yes.

Q And what was the nature of those discussions?

A You know, I was over at my brother's house around this February time period. And I think it was specifically around a usual visit, where I made it a point to try and stay at home and then visit my family.

And my brother saw that I was receiving faxes at his house, and also getting packages for presentation materials related to a meeting with Mark McDade. And he asked me, "Hey, you know, what " something to the effect of "You look busy."

And I said, "Yeah. Hopefully – you know, we're in the midst of a transaction with PDLI. The company, you know, may be – may be interested in selling. Let's see where it goes."

[456] **Q** And was that confidential information that you imparted to your brother?

A Yes.

Q Was it non-public information?

A Yes, it was.

Q And would that have been material information?

A Yes, it was.

Q I want to move forward now to the March, 2007 time period. A company called Biosite. Are you familiar with a company called Biosite?

A Yes.

Q And what is it?

A Biosite is a medical diagnostics company based in the United States.

Q And in 2007, was Citigroup performing any work related to Biosite?

A Yes.

Q What was Citigroup doing for Biosite?

A At the time, I didn't know who the buyer was, but I learned that Citigroup was representing a company that was interested in potentially purchasing Biosite.

Q Do you recall who the potential purchaser was?

A I later learned that it was Beckman Coulter.

Q And were you personally doing any work on that Biosite/Beckman Coulter deal?

* * *

[459] **Q** Mr. Kara, after learning of the impending acquisition of Biosite, did you discuss Biosite with your brother, Michael Kara?

A I did.

Q And when did that discussion take place?

A It took place that Thursday. March 22nd.

Q And where were you at the time?

A I was in a taxicab in New York.

Q And what happened, how did that – that conversation come about?

A Um, I had received an e-mail from one of the assistants in the office. And, contacting me to let me know that my brother Michael had called. I was on the way to go see a colleague of mine – Dan Decelles, in fact – who had just recently resigned from Citigroup, and meet him in Soho, which is part of New York, or a little – a little area in New York.

I picked up the phone, I called my brother back. And, he didn't sound well. He told me that he had been sick, and the reason he hadn't called me in a few

days was that he was really ill. He said that my mom wasn't feeling well. And, just sounded very down. He then said that he needed a favor.

And, I said, "Okay. What kind of favor?"

And he said, "I need some information."

And I said something to the effect of "If this is about money, I can give you money."

[460] And he said "No, it's not about money. I need information. I owe somebody." And then he said, "Please, I need this. Please, I need this."

I paused in the taxi. I think a bunch of things just started going through my head. And, my – my immediate reaction was I went through numerous transactions that I was working on, and I was panicking and wondering what my brother had gotten himself into.

And out of my mouth, I said, "I – I think a company called Biosite – I learned a company called Biosite may be acquired as early as next week."

Q And, why did you choose to give Michael information about Biosite when he asked you for information, as opposed to another company that you were working on?

A As I had mentioned, I think it was just such a sudden and unexpected situation that when I realized he needed this information, and he wouldn't agree that it was an issue about money, that I – I went through my head, and I said I can't – I didn't want to

tell him about the biotechnology transactions that I was working on.

And I ended up telling him about Biosite because I wanted to reduce the likelihood that by giving him insider information, which if we ever got caught – which we did – that it could ever be attributed back to me.

Q And after you gave him the information that there was an [461] impending acquisition of Biosite, what happened next?

A I was in the taxi. And it just happened so fast, it was – I told him I needed to call him back. I paid the taxi. I called my brother back. I was pacing up and down the street. And, I just remember it as clear as yesterday.

And I told him, "Please, what I just did was wrong. It was illegal. Do not act on this. And do not give this information to anyone. And if you do, I believe that the Securities and Exchange Commission" – "the SEC," I said – "is tracing – will trace this phone call." And that, "We will get into a lot of trouble."

Q And what did your brother say in response?

A He said "Don't worry."

Q And what did you think your brother was going to do with the information you had given him about Biosite?

A He was going to trade on it.

Q I would like to show you now what's been marked as Exhibit 372.

(Witness examines document)

A Yes.

Q Do you recognize that document?

A I do, ma'am. Sorry.

Q And what is it?

A This is a copy of my Cingular wireless telephone records for my phone number while I was in New York. My cellphone [462] number.

MS. DOWLING: Your Honor, offer Exhibit 372 into evidence.

MS. SHIFMAN: No objection, Your Honor.

THE COURT: All right, 372 is admitted.

(Trial Exhibit 372 received in evidence)

MS. DOWLING: If we could look at the first page, please.

(Document displayed)

BY MS. DOWLING:

Q Do you see the number listed here, Mr. Kara?

A Yes, I do.

Q Was that your cell phone number?

A Yes, it was.

Q If you could turn now to Page 34 in that exhibit. (Request complied with by the Witness)

A Yes, ma'am.

Q Do you see in the lower portion of this – if you could enlarge calls 161 through 170.

(Document displayed)

Q Mr. Kara, are you able to identify the phone calls you just testified to between you and your brother, Michael, where you disclosed the Biosite information?

A Yes, I am, ma'am.

Q And where are those?

[463] **A** In that far left column, they are Nos., Line No. 167 and 168. Those are the two phone calls that I just referenced.

Q And what times were these phone calls made?

A It looks like the first phone call was at 3:43 p.m. New York time. East Coast.

Q And who to what number was that call made?

A That was to my brother's cell phone, which was 707-567-2202.

Q And the second call?

A It was at 3:49. And it was also to 707-567-2202.

Q And how is it that you are able to remember this so clearly, Mr. Kara?

A This is – this has been a nightmare that I have relived every day of my life for the last six years. I wish I could take it all back. But I remember that conversation like it was yesterday.

Q Why did you choose to provide your brother with confidential information about Biosite?

A Terrible judgment, and it was an issue of panic. I didn't know what my brother was involved in, when I offered him money and he said it wasn't about money and he didn't need money. I didn't know what he had done. And, he said he needed information. And, that's what I gave him.

Q If you could set that exhibit to the side, please.

(Request complied with by the Witness)

* * *

[468] **A** I learned about it from my brother, initially. He called me on April 30th of 2007. And the reason that I can remember that date, it's my wife's birthday. And we had just come back home from dinner. And, my brother called. He sounded pretty shaken up.

And, he told me that he had received a call from the SEC, and that they had asked him about Biosite, Andrx and USPI. That he had told them that he did not get stock information about those companies from

me. That they had asked him whether or not we shared confidential material non-public information. He said no.

And then he also started to name other people that the SEC asked about. As soon as he started telling me the names of other people, I stopped him. I told him I didn't want to hear about it, any more. And I said something like, "What the F were you" – expletive – "were you thinking?"

Q And after the call with your brother, did the SEC contact you as well?

A Yes, they did.

Q And when, approximately, was that?

A The SEC called me the next day.

Q And what happened?

A I answered the phone. And, they began asking me questions about Biosite, USPI, Andrx and other companies. And, they also asked me about my relationship with these other [469] people. And I made numerous false statements to the SEC.

Q What are some examples of the false statements that you made to the SEC?

A They asked me whether or not I told my brother about a company called Biosite. I said no. That was false.

They asked if I had shared material non-public information with my brother about Citigroup clients. I said no. That was false.

I said – they asked me if I had told my brother about a company called USPI. I said no. That was false.

They asked me if I had shared information about Andrx Corporation with my brother. I said no. And that was false.

They also asked me if I had learned about a transaction related to Biosite. And I said "Not until after the deal was announced." That was false.

And I made numerous other false statements that I can go through with you and with the jury and with Judge Chen.

Q Mr. Kara, why did you lie to the SEC when they called you?

A Um, I was terrified. My wife was nine months pregnant with our first child. And, Grace was born on May 7th, so six days after that phone call. I was scared of the consequences on my family.

I didn't know what my brother had done with respect to the other people. Nor the involvement of others. I didn't [470] even know about the majority of the trading that they were asking me about. And, I was worried about my career and worried about going to jail.

Q And, after this call with the SEC, did you tell Mr. Bassam Salman that the SEC had contacted you?

A Yes, I did.

Q What did you tell him?

A Um, I told – it was around, you know, about a month after, or – that I had been contacted. So, a few weeks after. And I confided in Mister – with Bassam that I had received a call from the SEC, and that they had asked me about my involvement with insider trading, and they had asked me a bunch of questions about people that I didn't know about their involvement. And, that I was really worried about my career.

Q And what was Mr. Bassam Salman's reaction?

A He was concerned. He put his hands in his pocket and said, "Oh, my gosh, oh, my gosh," and began pacing back and forth.

Q Mr. Kara, were you aware that your brother Michael was providing the material non-public information that you provided him, to other people?

A No.

Q And were you aware that your brother was giving that information to Mr. Bassam Salman (Indicating)?

A No.

* * *

[483] **Q** A better job, if you wanted it.

A Yes, ma'am.

Q It's fair to say before what you did in this case, your career was on an upward trajectory.

A Yes.

Q You were a rising star.

A I had my ups and downs, but yeah, when I left Citigroup, ma'am, I was going to a very good opportunity.

Q Because you were on an upward trajectory (Indicating), a rising star.

A Thank you for saying that. I'll take the compliment.

Q Your reputation in your family was that you were a rising star.

A Yeah.

Q And you felt they were proud of you for everything you had done.

A Yep.

Q When you met Susie in 2002, she was a medical student at the University of Chicago?

A Uh, yes.

Q That's also a very prestigious medical school.

A She's an extremely brilliant woman.

Q And, she finished school and is now a pediatrician.

A Yes.

Q She's hard-working?

[484] **A** Extremely.

Q Beautiful?

A Yes.

Q Loving?

A Uh-huh.

Q You got engaged in June of 2003.

A Yes.

Q And you married in July of 2005.

A That's right.

Q You introduced your families to each other before you married, because that was important to you.

A Yes.

Q You wanted them to get a chance to get to know each other.

A That's – yes.

Q Build a connection, if that was possible, with each other.

A Yes.

Q That your families are connected is important, not just sort of for this cultural reason, but because it's important to you.

A Yes.

Q And it's important to your wife, Susie.

A Absolutely.

Q So, you had a chance to meet with Susie's family?

[485] **A** Yes, I did.

Q And, you had a chance to meet with Sam (Indicating)?

A Yes.

Q And Susie's family got to know you.

A Yes.

Q That was the purpose. You were the main purpose, since you were interested in Susie, potentially marrying Susie.

A Yes.

Q It was a serious relationship.

A Right away.

Q And, you wanted them to know what kind of man you are.

A Um, yes, I wanted them to understand who they could be considering allowing their sister to get married to.

Q You wanted them to know that you were hard-working?

A Yes.

Q That you were held in high regard?

A Uh, yeah, I think so.

Q That you were trustworthy.

A Yes.

Q It's fair to say that you wanted Susie's family to accept you.

A Absolutely.

Q And to accept your family.

A Yes.

Q You introduced your own brother, Mounir, Michael Kara, to [486] Susie's family.

A Yes, I did.

Q Do you call your brother "Michael," or "Mounir"?

A Um, I haven't spoken to him in four years, but I don't know what I would say – whatever you're comfortable with, I'm happy to call him.

Q When you spoke to him on a regular basis.

A Yeah, I call him "Mounir."

Q "Mounir." So I'm going to call him "Mounir" too, if that's all right with you.

A Okay.

Q Okay. You introduced Mounir to Susie's brothers. To Ghazy, the elder brother. Right?

A Yes.

Q And to Sam as well.

A Yes.

Q And, in your presence, Sam Salman and your brother Mounir had a chance to meet.

A Yes.

Q The first time they met was in May of 2002, when Sam accompanied Susie and a few other family members out here to California.

A That – that sounds about right.

Q And they lived in the Chicago area, so they flew out here to the Bay area.

[487] **A** Yes, ma'am.

Q And it was a quick visit. Two, two days, maybe two and a half days?

A I think that's right.

Q But the families, though you wanted them to really spend some time and get to know each other, they lived in different cities.

A Absolutely.

Q And Michael lived here in California (Indicating), Sam lived in Chicago. Is that correct?

A That's correct.

Q And they saw each other only occasionally.

A As far as I knew, yes.

Q And in fact, before your engagement, only that once in May of 2002.

A Um, I can't confirm it, ma'am. That could be very well true.

Q And usually, when –

A I'm just trying to think of the different times that – in between the engagement. I recall my mom and my dad coming out to Chicago as well on a separate, separate trip.

Q Okay. But right now, I'm just talking about Mounir.

A Yes, ma'am. Okay.

Q Okay? Usually when Mounir would be in the presence of Sam, you would also be present, in those early days.

* * *

[490] **Q** And, let's go back to that engagement party. Sam got to see your family – Mounir in particular is what I'm referring to right now – maybe one time during the year. Isn't that correct?

A It could be right, yes, ma'am.

Q Once in 2002?

A Um, that's the only visit that I – I personally recall Susie's family coming to, yes. And I don't recall my brother going to Chicago. I'm not sure.

Q Maybe once in 2003?

A I'm not – I don't know. I don't remember it.

Q Okay. And maybe once in 2004.

A Um, I think more than once in 2004. Because I recall the family coming out when my dad was ill, to check on my dad. And then, later at both the funeral services, which, I don't believe Sam was able to attend the funeral, but I do believe later was able to attend the memorial service.

Q And when parts of Susie – members of Susie's family came to visit your – your ill father, that was Ghazy and Susie. And Rose, Ghazy's mother. Was it not?

A Definitely I remember Tiger being there, yes. And Susie and her mom. I'm not – I am not sure if Sam came or not. And forgive me, ma'am, because I was living in New York, and was flying to see my dad

on weekends and taking red-eyes back on Sunday night to get back to work on Monday.

* * *

[495] **A** I sure did.

Q You breached your colleagues' trust.

A Yep.

Q And you breached your family's trust.

A Yes.

Q I want to ask you about your brother, Mounir. I know this is not easy. I know there's a long history.

In 1999, he was diagnosed with Bipolar I disorder. Is that correct?

A Um, I believe that's the right time, ma'am, yeah.

Q But he wasn't well long before that diagnosis.

A That's correct.

Q You have early memories of him being unwell.

A Yes.

Q He's ten, ten and a half years older than you?

A That's correct.

Q Your memories of him being unwell began when maybe you were like a preteen, 13 years old?

A Yeah, yes. I think any time from that – ten-year-old, eleven, twelve and beyond. Even – even eight or nine. Yeah.

Q Okay. So, Mounir was a late teenager, 20 years old, and you recall him having serious difficulties.

A Yes.

Q His illness manifested itself in many different ways.

A Yes.

[496] **Q** Sometimes, he would act paranoid?

A Um, it's tough to generalize about that, ma'am. There were times where he began to act paranoid. I didn't see that initially, in him. Again, I was young.

I felt the description of what you are describing, paranoid, sort of evolved when I was more in the late college time frame.

Q All right.

A So I was in my twenties, he was in his thirties.

Q So it progressed over time.

A Yes.

Q Got more severe.

A Yes.

Q More active. More present.

A I think more present, yeah.

Q Okay. More present. You – sometimes he had delusions?

A Um, you know, from what I had heard from other family members, yes.

Q And, those delusions also progressed and got worse over time.

A I think, as – from what I understood from his wife, because that's who I'd hear about the delusions from, they progressed as a result of many of the medications he was on.

MS. DOWLING: Your Honor, I object, on hearsay.

THE COURT: Sustained. I'm going to strike that [497] comment from the Record.

BY MS. SHIFMAN:

Q He's been suicidal?

A Yes.

Q Have you seen him in a delusion – when he's been in the midst of a delusion?

A No.

Q Has he talked to you about some delusional beliefs?

MS. DOWLING: Objection, Your Honor, hearsay.

THE COURT: Overruled.

THE WITNESS: Um, I'm thinking of the different incidents, ma'am, in my mind. The bugging incident, he never discussed it with me.

Right now, I can't recall specifically any events. If you have an event in mind, I would be happy to recall it.

BY MS. SHIFMAN:

Q We will get into some of the specifics in a bit.

A Okay.

Q It's fair to say he's been emotionally unstable?

A Yes.

Q He's acted impulsively?

A Yes.

Q He's had a tendency to exaggerate?

A Yes.

Q To sometimes even lie?

[498] **A** Yes.

Q You have described him to others as a pathological liar.

A I think we reached a point in our relationship where it was hard to believe anything that he was saying to me.

Q You even told the government that he was a liar, a thief, and a drug addict.

A Um, you know, I think those are some – I don't know how people interpret the things that I say or how they are written. I think those are pretty broad characterizations. But my brother certainly has had a lot of issues, yes.

Q And you wanted the government to know that in your mind, at the time you passed the information on to them, that he was a liar, a thief, and a drug addict?

MS. DOWLING: Objection, asked and answered.

THE COURT: Overruled. You can answer.

THE WITNESS: Um, if that's how it came across, I wanted them to know that much of what the government had originally thought about this case, I didn't know.

So, when I called him a liar, I was probably referring to the times where he just flat-out denied that he was trading, and he turned out to be trading. A thief, because I felt that much of the information that was used when I learned of the trading activities was taken from me, without my knowledge and without my consent.

And to call him a drug addict, I don't know if – I know

* * *

Volume 3
Pages 506-718

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA, Plaintiff, vs. BASSAM YACOUB SALMAN, Defendant.	NO. CR 11-0625 EMC San Francisco, California Wednesday September 18, 2013 8:25 a.m.

TRANSCRIPT OF TRIAL PROCEEDINGS

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Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

[MAHER KARA – CROSS EXAMINATION/SHIFMAN]

[526] ask you some more questions.

A Okay.

Q And I wanted to pick up pretty much where we left off, which was talking about Mounir, your brother, and your relationship with him.

A Yes.

Q Okay? And you indicated that your brother is unwell at times.

A Um, there were periods in his life where, yes, he was unwell.

Q And when that's happened in his life, you've always tried to be there if he needed you.

A Yes.

Q And, during those periods in his life when he's been unwell, he's needed a lot of support from you.

A Yes, ma'am, but I do want to make it clear that much of the incidents that I – that – where my brother was unwell, oftentimes I was living away. And much of that was encumbered by my parents, and specifically by my dad.

Q Sure.

A Okay.

Q Especially early in your life, I would imagine.

A Yes.

Q But your brother's – following your father's death, your brother's been in regular and constant communication with you.

* * *

[544] **Q** It was one of his passions?

A Yes.

Q And, he cared very much about it?

A Yes.

Q And that's why the fact that even though it happened some time ago, that's why it still stayed with you all these years.

A Yes. There was a confrontation, and – and my dad was very upset about the coin collection. And that moment stayed with me in my – as an impression.

Q Right.

A I don't think I cared about the coins.

Q Sure. Now, you said that you knew that – you came to learn that Mounir used drugs.

A Yes.

Q And, one time you found cocaine in the pocket of his jacket (Indicating).

A Yes, I did.

Q And you con –

A I – excuse me. I don't know if it was cocaine.

Q You found a white powdery substance in his jacket pocket.

MS. DOWLING: Objection, foundation.

THE COURT: Overruled.

THE WITNESS: Yes, I did.

BY MS. SHIFMAN:

Q And you thought it was cocaine.

[545] **A** I didn't – I honestly, it was – I was in high school, and I didn't know what it even was.

Q You thought it was a drug.

A I thought it was something.

Q Okay.

A Yeah, that shouldn't have been there.

Q You confronted Mounir about it.

A Yes.

Q He lied to you about it and denied that those – that the powder was his. Right?

A I don't know if it was a lie. He told me it was for someone else.

Q At that time, Mounir would disappear for days.

A I'm sorry, I'm trying to think back to – at that time, you are referencing again, I was in high school when this happened. So I was in my teens – mid-teens.

I don't – I honestly don't remember, ma'am, that – that time period, if he was disappearing for days. I know that we – there were, you know, arguments between him and my parents about things. I don't know if it was disappearing for a few days or not.

Q Do you remember telling the government on April 21st – in April of 2010, that Mounir's drug binges increased in frequency after his wife became pregnant?

A Yes.

* * *

[550] **Q** That was a possibility?

A I don't know about the delusion, ma'am. It just –

Q That he might have gotten involved in some kind of criminal activity?

MS. DOWLING: Objection, Your Honor.

THE COURT: Overruled.

THE WITNESS: I don't know that it was criminal, but that he got himself into a bad situation. I don't know if it would have been criminal. But, just a bad situation.

BY MS. SHIFMAN:

Q He didn't sound – he didn't sound stable at the time you were talking to him.

A He – he sounded very – faint and distant is the way I would describe his voice.

Q So, knowing what you know about Mounir, his history, his ups and downs, you still gave him information that you knew you weren't supposed to.

A Yes.

Q And, when you first started talking to Mounir about this information, you were talking to him as though he were a colleague or a consultant, maybe, to learn about biotech and drugs. Correct?

A I talked to him as a friend and a brother. And also as a, like you said, as – not a consultant, but as an industry expert. Somebody that I could use a sounding board to get [551] knowledge about the

sector, and in turn, was kidding myself into thinking that I was benefiting my clients by it.

Q And you described sort of a second phase of discussions with your brother, where you were talking about different drug treatment options that potentially might have been of benefit for your dad who was ill at the time.

A Yes, ma'am.

Q And you were talking about some drugs that might not have been available on the public market, that hadn't yet been approved by the FDA, the federal drug administration.

A That's correct. It's the Food and Drug Administration.

Q Sorry, Food and Drug. Thank you for clarifying that.

You know from possibly working in the healthcare group at Citi that it can take a long time – many months, sometimes years – to get approval by the FDA.

A Absolutely. Drug development can take up to 13, 13 to 15 years.

Q And, discussing with your brother about a new drug coming out doesn't necessarily make the drug available any quicker for use with your dad, does it?

A There are things kncwn as compassionate use, and that is what we explored specifically with Schering Plough in relation to Temodar, and my father was given Temodar as a prescription.

Q You did that. You ferreted that through with Schering Plough. Correct?

[552] **A** But it was something that I discussed also with my brother. I mean, we were – we were frantic, ma'am. We were looking for any hope that we could find for a terminally-ill dad.

Q Of course. Of course you were. But in discussing the drugs, you didn't just say, "There's a company I'm working with that might have effective treatment for my dad," did you? "For our dad," excuse me.

A Um –

Q Let me ask you a follow-up, just to put it together.

A Uh-huh.

Q You told your brother not only about the drug, but also about the company that had the drug. Correct?

A Sure.

Q Even though you could have talked about the drug without disclosing which company had it in development.

A I – I think I used the names of the companies to sort of legitimize the validity of the drugs. Schering Plough was a large, well-known pharmaceutical company with several marketed drugs.

And it wasn't like I was going to a very small biotech that had a young, young drug in development, and highly experimental.

Q But in doing so, in combining the name of the company with the drug, you were disclosing confidential information.

[553] **A** Yes.

Q When you could have just discussed the drug without disclosing the name of the company.

A You are absolutely right.

Q And when you would talk to Mounir and vent about your – your work day, you didn't just walk in to him and say, "Oh, my God, my day really sucked," did you?

A Um, I don't know. If you look –

Q Let me ask you, sir. You gave him specifics about how your day went wrong.

A Um, in some cases, yes, I very much – you know, my brother – I shared with him who the people were on my team, how – how we worked together, who are my friends, and things like that. So he got a very good understanding of what my healthcare team looked like, –

Q Sure.

A – and the type of work that I did.

Q So for instance, you could have said, "I'm going to be out of a big commission because they're treating me wrong in my company."

You didn't say it that way, did you, sir?

A No, I didn't, ma'am.

Q You combined it with the name of the company and a deal, a merger or an acquisition that was going to happen.

A Yes.

[554] **Q** And the same is true when you were going to go have dinner with the CEO. You didn't just say, "I'm going out to dinner for work," correct?

A That's correct.

Q You said, "I'm going out to have dinner with Mark McDade of PDL" – "of Protein Design Lab," or "PDL." And you talked about the company.

A Yeah. I think I was probably – yeah. I was probably wanting to brag to my brother that I was having dinner with a major – with the CEO of a major pharmaceutical company. I wanted him to be proud of me.

Q And you did that, and disclosed confidential information in that manner, instead of just talking generally about what was going on, even though you

knew that your brother wasn't always trustworthy or stable.

A Yeah. Yes.

Q And then, you testified earlier that you were surprised he was trading on the information you were giving him.

A I was.

Q I want to talk to you a little bit about – a little further about how Mounir relies upon you. He gave a toast, a speech at your wedding, did he not?

A Yes.

Q And, I saw – I saw all the pictures. There were a lot. Something like 700. Right?

[555] **A** I – you know, my wife, my wife hired a great studio company, so – yeah.

Q Yeah, yes. And, there was a video of the wedding as well. Correct?

A Yes.

Q So, I got to see the joy at the wedding.

A Uh-huh.

Q And you felt happy there?

A Very. It was the best day of my life.

Q And there were all your friends?

A Yeah, a lot of my colleagues, and friends and business school – business school friends. Actually, only one Citi colleague, but the rest were all business school friends.

Q Family?

A Yes.

Q Extended family?

A Yes.

Q Extended family of extended family?

A A lot on my wife's side. We were very tiny.

Q Okay. It was a very emotional moment for you?

A Yes.

Q And when Mounir, before dinner, gave a toast, holding the champagne, you and Susie, your wife, were up on a sort of raised dais, and people were looking at you, with the toast.

Right?

[556] **A** I believe so, yeah.

Q And Mounir was addressing the crowd of your family and friends?

A Yes.

Q The people in your communities that are closed to you.

A Yes.

Q That are close to your family.

A Yes.

Q And you recall when Mounir said to everybody that he speaks to you whenever he can find you.

A Yes.

Q You laughed. You laughed.

A Uh, yes.

Q And he said every day, if he can, he speaks to you.

A He would call me to tell me how he's doing. Yes.

Q He said that you were his mentor.

A I – um, I felt it the opposite way, too, in many ways. Yeah, okay, I don't remember his exact speech, ma'am, but okay.

Q When he said that you were his mentor, you started to cry.

A Uh-huh.

Q Do you recall that?

A Yes.

Q You were particularly emotional as Mounir was speaking.

A Yes.

[557] **Q** He told everybody at your wedding that he speaks to you, to seek advice from you on many things.

A Uh-huh.

Q Is that a "yes"?

A Uh, excuse me. Uh, yes.

Q Okay. You were weeping when he said that.

A I love my brother very much.

Q He said that you were his private counsel.

A I don't know what that meant, but, okay.

Q He said it.

A Okay.

Q He even joked that you were cheaper than his lawyers.

A I'm sure, as of today, that's probably right.

Q He said that you were one of the most generous human beings he knows.

A Um, we, as a family, like to see people happy. And –

Q Is that a "yes"?

A – we never had much, growing up. So, yes.

Q Okay. He told everyone in the crowd that you make very wise choices.

A I think he was talking about the bride.

Q He told everyone in the crowd that you make very wise choices, did he not?

A Um, I – I don't remember every single thing he said, ma'am, but if – if you saw it in the speech, then I'm sure he

* * *

[574] that your brother had traded heavily in the pharmacological industry.

A Um, that – I didn't know he was trading. I – I didn't know my brother was trading until I got a call from the SEC, telling me that he was trading. I expected he was trading, but I didn't – I had not discussed what my brother was doing with him.

Q All right. You get indicted in 2009.

A Uh-huh.

Q And there's still continuing discussions with the government. Correct?

A Yes.

Q Around December of 2009, your story was that Mounir was stealing information from you while you were here in the Bay area, having traveled from New York.

A I don't know if that was my story, ma'am, but that was – it was part of my belief of what had happened.

Q Okay.

A The totality of the case was much – the original indictment included several companies that I didn't have – that I wasn't intending to benefit my brother with.

Q Right.

A Okay. And that's how – I was not accepting responsibility initially, you are correct.

But, at the same time, I was trying to make certain that [575] – that people were aware that I didn't have knowledge of all of the trading activity that I was alleged to be involved in.

Q You believed that Mounir was actually going into your briefcase and sneaking a look at your documents.

A Yes.

Q These documents that related to various companies and potential merger or acquisition transactions?

A Yes, ma'am.

Q You wanted the government to know that you believed your brother was sneaky.

A Yes.

Q And deceptive.

A Yes.

Q And, that you believed that others had seen him going into your briefcase.

A Um, it's what I learned from others.

Q That – you believe that your mother and sister had seen him actually do this.

MS. DOWLING: Objection, hearsay.

THE COURT: Overruled. Goes to state of mind.

THE WITNESS: Yeah.

THE COURT: Let me explain that when I say "goes to state of mind," that I'm allowing this testimony to come in so that the jury can understand the state of mind of this witness, and not necessarily the truth of what was being said.

[576] **THE WITNESS:** Yes.

BY MS. SHIFMAN:

Q You believe that Mounir was eavesdropping on your telephone calls that you were having with colleagues or clients.

A Um, yes.

Q You told the government that.

A Yes.

Q And that you believe that others had – including your mother – had seen him doing that.

A Yes.

Q And your sister, too. You believe she had seen him doing that.

A Yes.

Q You told the government that you were trying to keep Mounir away from your professional life.

A I did.

Q You told them about how your key fob was missing. Do you remember that?

A Yes.

Q And a key fob is an encrypted device that attaches to the computer. Is that right?

A It doesn't attach to the computer, but it's an encrypted device used to log in to proprietary systems.

Q For instance, Citigroup's proprietary systems.

[577] **A** Yes.

Q And, you said it went missing, correct? The key fob?

A Yes, it – it did.

Q And it was later found at Mounir's house.

A Yes.

Q You've –

MS. SHIFMAN: If I could have one second, Your Honor?

THE COURT: Yep.

(Off-the-Record discussion between counsel)

MS. SHIFMAN: Thank you.

BY MS. SHIFMAN:

Q You've told the government, you wanted them to know that in Mounir's past, that he has been rambunctious and hard to control.

A I don't know if I used those words, ma'am, but, um, yes, my brother has been, um – he's been – he – he's conducted himself in the way that he wants to conduct himself.

Q All right. Your testimony has touched upon a company called Biosite. Right?

A Yes.

Q And you said that at the time in March of '07, Mounir called you seeking information about a company. Right?

A Yes.

Q And, you told us he sounded distant, he sounded faint, and it caused you concern.

[578] **A** Yes.

Q You were worried about him, and you thought he was in trouble. Right?

A Yes, ma'am.

Q And you told us that that's why you gave him information. Right?

A Yes, ma'am.

Q The second that came out of your mouth, you regretted it.

A Yes.

Q You called him back immediately. Right?

A I did.

Q You told him, "You should not use this."

A That's correct.

Q You implored him to not use the information.

A Yes.

Q You told him that it would ruin the family.

A And it has.

Q You told him, "Don't use it."

A Yes.

Q You asked him, "You're not going use this, correct?"

A Something to that effect, yes.

Q And he told you, "Don't worry about it."?

A That's correct.

Q You never intended for him to use that information.

A I did, when I gave it to him, I – I intended it. But I [579] tried to take it back and it was too late, ma'am. The damage was done.

Q Because you didn't want him to use it.

A I have – no. I didn't. I didn't want him to – I did initially, and it was a huge mistake.

Q You've testified as well about a company called Andrx. Right?

A Yes, ma'am.

Q At the time you were talking to your brother Mounir about it, you were not very happy with your colleagues at Citigroup.

A I was unhappy about that particular situation, about being removed from that account. It wasn't –

Q Right. You felt frustrated?

A Yes.

Q A little angry about being removed from the deal?

A Definitely.

Q It was going to cost you – excuse me, cost potentially $18 million in fees that would be credited to you?

A That's how I felt about it, yes, between the advisory and the financing fees, I was expecting somewhere up to 18 million for fees to Citigroup.

Q And that would have been important for your supervisors, in looking at – as to whether or not a promotion would be warranted.

A Yes, ma'am.

[580] **Q** You talked to your brother about this, to share your frustration about the job.

A Yes, and – and the company Wockhardt, I had already talked to him about it the previous year. And he was aware that I was working on a transaction, a previous transaction for six months prior, with Wockhardt.

So, again, I felt comfortable talking to him about a subject that – and he knew that I had gone to India and visited these companies, and developed relationships with.

Q Sure. I'm going to switch –

A I mean, I made some great – excuse me. Go ahead.

Q I'm going to switch topics.

A Okay.

Q You testified on direct examination, in response to a question from – from Ms. Dowling, that with respect to USPI, United Surgical Partners, that you gave your brother a report. A research report. Right?

A Yes, ma'am.

Q And, that research report was prepared for Citigroup clients, large clients, and other – other clients of Citigroup. Correct?

A Yes, ma'am.

Q It was not – that report, itself, was – withdrawn. You gave that report to him in case he ever got into trouble or was asked questions about USPI. Right?

* * *

[588] **Q** They're from a very prestigious global law firm, right?

A Yes, ma'am.

Q Rumor has it they're among the best securities lawyers in America?

A They're – they're terrific people. They're terrific human beings. And great lawyers.

Q And, terrific human beings. Sometimes those are not the same things.

And you met with them, you took their advice. But the decision about what to do is ultimately up to you. Right?

A Yes, ma'am.

Q All right. And you decided that it would be better for you if you had the chance, the hope, the possibility, to save yourself some prison time if you cooperated with the prosecutors by assisting them with their cases.

A Originally, ma'am, my cooperation I thought was going to be limited to say that I tipped my brother. And that is what I did. And that is what I've accepted responsibility for. I was unaware of the involvement of any other people, and what my brother had done with the information.

I have been brought into these matters to testify truthfully about the things that I have done, and in no way, shape or form, want to hurt anyone else. I really want to make that clear.

Q Okay. When – before you pled guilty, before you signed

* * *

[MAHER KARA –
REDIRECT EXAMINATION/DOWLING]

[595] **BY MS. DOWLING:**

Q And when you learned that, how did that make you feel?

MS. SHIFMAN: Objection, relevance.

THE COURT: Overruled.

THE WITNESS: Upset. Shocked. Angry. Defeated. Manipulated. Betrayed.

BY MS. DOWLING:

Q Ms. Shifman asked you –

A And, responsible.

Q Ms. Shifman asked you about – had many questions about how you could have potentially avoided being here today. Is that right?

A Yes.

Q Do you have control over the actions of others involved in this investigation?

MS. SHIFMAN: Objection. That is not –

THE COURT: Sustained.

BY MS. DOWLING:

Q To your understanding, is this a larger investigation than just yourself?

MS. SHIFMAN: Objection, Your Honor. Vouching.

THE COURT: Overruled.

THE WITNESS: It is much bigger than just myself.

BY MS. DOWLING:

Q And more people than yourself and your brother benefited

* * *

[610] knowledge? What was that based in?

A My understanding is he has an undergraduate degree in biochemistry, and he did graduate work in toxicology. He had a very strong science background. Graduated from college, I believe, around the age of 20. So, he was very knowledgeable in science.

MS. DOWLING: Thank you Mr. Kara. Thank you, Your Honor. No further questions.

THE COURT: All right. Anything further on recross?

MS. SHIFMAN: No, Your Honor.

THE COURT: All right, thank you. Mr. Kara, you may step down.

THE WITNESS: Thank you.

(Witness excused)

THE COURT: The Government's next witness.

MS. DOWLING: I'm sorry, Your Honor?

THE COURT: Next witness?

MS. DOWLING: Yes. The Government calls Mr. Paul Glyer.

MS. SHIFMAN: Your Honor, may I just approach to take down the binders?

THE COURT: Yes, uh-huh.

MS. SHIFMAN: Thank you.

PAUL HARTLEY GLYER,
PLAINTIFFS'S WITNESS, SWORN

THE CLERK: Please state your full name, spelling

* * *

[GLYER – DIRECT EXAMINATION/DOWLING]

[614] what were you relying on Citibank to do with Beckman Coulter with regard to the Biosite acquisition?

A We were relying on Citigroup to arrange the financing for the transaction. That was a pretty big check to be written, and so they needed to prepare analyses and the like to support financing that transaction, with a number of other financial institutions. But they – they would have been the lead in that arrangement.

Q And, how did you figure out – you said it was going to cost 1.5 billion. How did you figure out what price you wanted to – without getting too technical, what price you wanted to offer Biosite in order to buy them?

A Well, you know, pretty much like anyone, you want to buy something for as cheap as you can. But

the starting point in trying to decide what to buy a public company for is what the stock is trading for in the marketplace.

So we looked at what the stock price was, and we calculated what we thought the value of the business was. That was in excess of what the company was trading for in the marketplace.

So we felt that we could make a competitive proposal to the board of directors of Biosite to acquire the company for more than the company was currently trading for, and that that would – we hoped, would be attractive to them as the representatives of the shareholders of Biosite.

[615] **Q** And, does that all boil down to the stock price of Biosite?

A Yes.

Q So there's the current stock price, what it is trading for in the market, right? And then there was the stock price that you were going to offer in the bid?

A Correct.

Q And is there a difference between those two prices?

A Oh, yes. You always have to offer more than the current market price, to entice the board of directors to sell a company.

Q So during this time period, are you watching the Biosite stock price?

A Oh, many times during the day. You know, very concerned that news could get out potentially, and if that happened, then the stock price would rise, and then we may not be able to make a competitive proposal for the company.

Q Why is that?

A Well, if the stock price rises and we have to offer a premium on top of that, then the price might get to a point where there is no value left in the business for us to be able to obtain.

Q And you said you were watching that stock price daily to see if there was any news that was coming.

A Yes.

* * *

[AZAR – DIRECT EXAMINATION/DOWLING]

[627] **Q** And who is Maher Kara?

A Maher is Mounir's brother.

Q And, how do you know that he's Mounir's brother?

A Because I met him at – I met him several times with Mounir, and Mounir told me that, his brother.

Q And how many times did you meet Maher Kara?

A I say three times. One time at – we were having lunch at Mounir's house and he was there. Another time, I met him at their father's funeral.

And the third time, I did invite him to dinner at our house. Him and his wife, when they first get married.

Q And, why did you invite them to your house?

A It's basically a tradition between, you know, families, Lebanese families. If someone coming from abroad, or if someone gets married or something like that, you invite them to your house.

Q So, it is a cultural reason?

A Yes.

Q Okay. Is it because Mr. Kara –

A Because he was newly married. And then he came with his wife, yes.

Q And, prior to 2007, did you know what Maher Kara did for a living?

A Yes.

Q And what was that?

[628] **A** He was – he worked as an investment banker.

Q And how did you know that?

A Mounir told me.

Q And did you know what area he specialized in?

A He did mention something in the health care.

Q And do you know if Michael Kara was proud of his brother?

A Yes.

Q Did Michael Kara share any facts with you about his relationship with his brother?

A Well, I know they were – you know, they seemed to me like close family. They spent time together, based on what he said.

He also mentioned to me one time that, if I recall, that he helped his brother going to school, when he was going to college. Paid for his college.

Q And, do you know an individual named Bassam Salman?

A No.

Q And did you ever talk to anyone named Bassam Salman?

A No.

Q Did you know an individual name Karim Bayyouk?

A No.

Q Did you ever talk to anyone named Karim Bayyouk?

A No.

Q Mr. Azar, prior to 2004, how would you describe your level of experience with the stock market?

[629] **A** It's like a lot of people. I try to think that I know what I'm doing, and then you know, we invested in the market. I used to do, you know, investments, do some research, myself. Nothing sophisticated.

Q And what types of companies did you buy and sell in 2004?

A During that period, I basically did like tech companies.

Q Can you think of any offhand?

A Yeah. Like, we did Microsoft, Intel, ADI. You know, just – those companies that worked – you know, basically Cisco, you know, the companies that were like in the news, those days.

Q Ones people had heard of.

A Yes.

Q Okay. And, during that time period, how did you make your stock buying decisions with regard to Microsoft and Dell, and the others you mentioned?

A Well, it's like, you know, I did – obviously, listened to the news, did some reading. Read some magazines, go on the Internet. Research the stock. I'll see the volume of the stock, look at the PA ratio

(Phonetic), look at the price of the stock. You know, up and down through the year. Read some analysis, you know, like just individual research.

Q And, did you discuss the stock market in the 2004, prior-to-2004 time period with Michael Kara?

A Yes.

[630] **Q** And then after 2004, did the nature of those discussions change?

A Yes.

Q How so?

A It changed in, it started with a stock called APPX. One day I was told by Michael that – to buy the stock because the stock had a promising drug coming on the market. So I went ahead and bought the stock. And, there was some issues with the drug, so it didn't get an approval, so the stock went down.

And, you know, I kept on – on the dips I used to buy the stock; go up, I'd buy the stock; you know, just trading, myself, with it, to do some averaging. And I lost money on that deal.

And then after, you know, maybe more than a year or so, year and a half or so, one day he told me that, you know, "You gotta buy the stock again."

I said, "What's going on?"

He said, "Well, my brother's going down to meet with the owner of the company. And they're trying to sell the company."

So I went ahead and bought the stock. And, you know, the sale didn't go through. So I kept on trading the stock, and then sold the stock after a while.

Q Mr. Azar, I would like to show you now what's been marked

* * *

[635] (Document highlighted)

BY MS. DOWLING:

Q This looks like the trading activity from January, 2005. Is that correct?

A Yes.

Q Okay. We are going to highlight the transaction detail. (Document highlighted)

Q Do you see where the highlights are? We will enlarge it so we can actually all see it.

A Yes.

Q You see, there's Amylin Pharmaceuticals?

A Yes.

Q And it looks like there was a purchase on the 19th and the 24th.

A Yes.

Q Is that correct?

A Correct.

Q Okay. Why did you buy Amylin Pharmaceuticals in January, 2005?

A Because Mounir told me to buy it.

Q And why did he tell you to buy it?

A It's like a lot of these biotech companies, or healthcare companies that he mentioned to me. He asked me – he told me to buy them, either they had a drug coming on the market or they were going to – the company was going to be sold.

[636] **Q** And did he ever say how he knew that a company was going to be sold?

A Not – not about this, no. But about the other ones.

Q So there were times where he told you why he knew?

A Yes.

Q And sometimes where he didn't tell you why he knew?

A Yes.

Q And when he told you why he knew, what did he tell you?

A On the two occasions that I clearly remember that he told me, he told me that his brother told him that the company was going to be sold.

Q And was this significant to you, that the information had come from Maher Kara?

A Oh, yes. Yes.

Q Why is that?

A Because, I mean, I knew that he was working in the industry there, and he was in there, and he knew that the sale's going to happen. That's what he does. So, if the sale happens, then the stock price going to go up drastically, and there's going to be a profit made.

Q And were there particular types of companies that Michael would tell you about, that came from Mounir – came from Maher, excuse me?

A Yeah, I mean, that – there is a company called Biosite, and, obviously, APPX.

* * *

[640] **Q** What did Mr. Kara tell you about Celgene?

A He said, he said they are having a new drug on the market, or the company's going to be sold.

Q And when Mr. Kara gave you this advice to buy Celgene and some of these other biopharmaceutical companies, did you go and do independent research?

A What I did was basically, I went there myself, and I located them, you know, on my own stuff. And I looked at the computer, and looked at the research.

But basically, when it was coming from him, I went there and I bought them.

Q You went ahead and bought it.

A Yeah.

Q Why is that?

A Because I – I considered that the information is coming from, like, from an insider source, and it's – it has a lot of potential to be true.

Q Is it because even if he wasn't telling you with each occasion, you knew it was backed by Maher Kara?

A Well, what I did was through the years, I just put one and one together. So I figured that even though I was not asking him and he was not telling me, I figured that the information was coming from his brother.

Q So more likely, the biopharmaceuticals were going to be a sure thing?

[641] **MS. MOEEL:** Objection, Your Honor.

THE COURT: Hold on.

MS. MOEEL: Objection, leading.

THE COURT: Overruled.

(Reporter interruption)

BY MS. DOWLING:

Q So, more likely, these biopharmaceutical companies that Michael Kara was recommending to you were going to be a sure thing.

A Yes.

MS. MOEEL: Objection. Suggests the answer in that question.

THE COURT: I'm going to sustain that objection. That is too leading. The answer is stricken.

BY MS. DOWLING:

Q So, more likely, these biopharmaceutical recommendations?

MS. SHIFMAN: Same objection, Your Honor.

THE COURT: Sustained. Rephrase the question.

BY MS. DOWLING:

Q The biopharmaceutical companies, did Mr. Kara recommend to you various biopharmaceutical companies?

A Yes, he did.

Q And why did you jump on those investments?

A Because, because – basically I jumped on these investments because in my mind, these – these [642] recommendations, he was getting them from his brother. And, since he was getting them from his brother, there is potential of being true, and is going to happen, and we are going to make a profit on them.

Q And did you make profits?

A We did some, profit on some, and we lost money on others.

Q And, overall, profit?

A We made profit.

Q Are you familiar with a company called Andrx Corporation?

A Yes.

Q And what is Andrx?

A It is another biotech healthcare company, that Mounir had mentioned to me to buy.

Q And I want to turn to Page 143, please, of Exhibit 188. (Document displayed)

(Request complied with by the Witness)

A Okay.

Q If you could read the date at the top of this page.

A It's March 31st, 2006.

Q Okay. Now, we're going to go back, if we could, to the detail.

(Document displayed)

Q Mr. Kara (sic), had you heard of Andrx Corporation before Michael recommended it to you?

A No.

[643] **Q** What do you recall him telling you about Andrx Corporation?

A I recall, like, either he said that to buy it because they're going to have a drug, new drug on the market, or they're going to sell the company.

Q Okay. So I want to focus your attention now to the bottom of this page, the highlighted portion.

Does that reflect the Andrx that you purchased?

A Yes.

Q Okay. And now I want to talk about the time period of August, 2006.

Were you familiar with the company called United Surgical Partners International?

A I was not, before Mounir told me to buy it.

Q So that's how you learned about it, from –

A Yes.

Q – Michael Kara? If you could turn now, please, to Page 212 of Exhibit 188.

Let's look first at the date when you get there.

(Witness examines document)

A I don't see the date on the bottom.

Q It's on the screen, too, if it helps. For the larger view.

A Okay.

Q Is this a statement from August 31st, 2006?

[644] **A** Yes.

Q Now I want to go to the middle portion of the page. Okay. See where it says "United Surgical Partners"?

A Yes.

Q Before you purchased United Surgical Partners in this time period, were you familiar with the company?

A No.

Q Had you heard of it?

A No.

Q Was this another one of the biopharmaceutical companies that Michael Kara recommended to you?

A Yes.

Q And you believed that information was coming from Maher Kara?

A Yes.

Q Let's turn now to Page 227, please, of Exhibit 188. (Request complied with by the Witness)

(Document displayed)

Q Can you see that document? Maybe we can enlarge it a little bit.

A Yes, please.

Q First let's look at the date. What's the date? Appear to be September, 2006 time period?

A Yes.

Q Now, if we can –

[645] (Document displayed)

Q Thank you. Make it a little bigger, here. Okay.

So, Mr. Azar, does this reflect that you sold USPI securities some time in and around September of 2006?

A Yes.

Q Do you know, do you recall why you sold USPI securities in September of 2006?

A Well, it looks like what happened in here is basically I sold it for a loss. So, it looks like the information didn't become real, so, I took my loss and I went out of it.

Q So the information, it just – did you have an understanding of what had happened with the company, and –

A Yeah, I don't know, as I said before, I don't remember. It was a sale of the company or some kind of drug. So whatever – whatever I was told that is going to happen to that company didn't – didn't materialize. So I went – and I sold it.

Q And then did there come a time when you repurchased USPI?

A Yeah.

Q If we could turn now to Exhibit – I'm sorry, Page 256 of Exhibit 188.

(Document displayed)

Q Do you recall approximately when that was, Mr. Azar?

A No.

Q Let's look at this page (Indicating), and see if we can [646] refresh your recollection on that.

MS. DOWLING: If we can enlarge the whole portion, because he will need to see the securities down through "United Surgical Partners." And include the date, if you could, please. Which is up here (Indicating).

(Document displayed)

BY MS. DOWLING:

Q So, Mr. Azar, looking at this – looking at your statement here, does this help refresh your recollection as to when you repurchased the USPI securities?

A Yeah. I can see the date, yes.

Q I'm sorry?

A Yeah.

Q Yeah, so was it in this November 2006 time period?

A Uh-huh. Yes.

Q And do you recall why you repurchased USPI?

A No, not exactly why. I mean, I don't know if I purchased it because I've seen some movement in the – in the – in the stock, and went ahead and bought it. I just don't recall exactly why I went back.

Q Are you familiar with a company called Biosite?

A Yes.

Q And how are you familiar with Biosite?

MS. DOWLING: Thank you, Maryam.

THE WITNESS: Mounir told me to buy it.

[647] **BY MS. DOWLING:**

Q I want to show you – sorry. One more, sorry. I spoke too soon.

MS. DOWLING: On 188, can you pull 188 back up?

We're just going to go to Page 301.

(Document displayed)

BY MS. DOWLING:

Q Do you see the date of this monthly statement?

A Yes.

Q What is the date of it?

A It's March 31st, 2007

Q Okay.

MS. DOWLING: And, if we could enlarge that top portion, Maryam, please.

(Document displayed)

BY MS. DOWLING:

Q Does this reflect your Biosite activity?

A Yes.

Q And, why did you purchase Biosite?

A Okay. I was – I remember I was driving back from our Rocklin office. I used to go there once a

week. And, I got a call from Mounir, it was a late Thursday. I was in my car. And, he – he mentioned to me that, to buy Biosite.

And, I asked him, "Are you sure?"

And, before that, I recall that he made some [648] recommendations on some stuff that didn't happen, so I just asked him again. "Are you sure about it this time?"

And he said "Yeah."

And I said, "I mean, you are sure?"

And he said "Yeah, the man told me."

And I said, "Okay."

And then – he also said that the man told him that the company, the board of directors either approved the sale or they are going to approve the sale that day, and for me to buy it.

And then he mentioned that the stock might hit mid-eighties, after the sale. And I said, "Okay. You are sure about it?"

He said "Yes."

I said "Okay." So I went home. I went on my computer, I did some research about the stock. And I've seen some movement in the shares. And I – I did other things, and looking at, you know, where the stock is. And it was in the mid-fifties.

And, next day, I put an order, I bought the stocks.

Q And when Michael Kara told you that "the man" said, that the information came from "the man," who did you understand that to be?

A Uh-huh. His brother.

Q Any doubt in your mind?

[649] **A** No.

Q And you had never heard of Biosite prior to purchasing it?

A No.

Q And you bought it that night, after receiving that information? Or the next day?

A Next day.

(Off-the-Record discussion between counsel)

BY MS. DOWLING:

Q Did Mr. Kara give you any time frame to buy the stock? Did he tell you to do it right away?

A Yes.

Q So there was an urgency associated with the purchase?

A Yes.

Q And you complied, and followed that direction?

A Yes.

Q And, you made money off this purchase, right?

A Yes, we did.

Q How much money did you make on the Biosite trades?

A $108,000.

Q Overnight, virtually?

A Technically, yes.

Q So, I want to move forward into 2007 after the Biosite purchase. Are you familiar with a company called Alexion?

A Yes.

Q And what is Alexion?

* * *

[654] No further questions.

MR. REEVES: (Inaudible)

MS. DOWLING: Sorry, excuse me. Withdrawn. One moment.

(Off-the-Record discussion between counsel)

BY MS. DOWLING:

Q Just a couple more questions.

A Okay.

Q Mr. Azar, did you have any special training in securities regulations or insider trading?

A No.

Q And, when Michael gave you the information that you thought came from Maher, did that give you any advantage over other investors?

A Yes, it did.

Q And what advantage was that?

A Well, the advantage is I knew about it before it came out in the public. And usually when this thing has been, the stock – once the stock – once the information's in the public, the stock already is up. So you cannot make any profit on it when it's in the public.

So basically, it gave me the opportunity to buy it at the lower, at the price before it jumps up.

Q Did you think you were doing something wrong?

A Yes.

* * *

[MARDINI – DIRECT/REEVES]

[691] **A** That's my wife.

Q And how long have you been married to your wife?

A Since 1992.

Q All right. And next to her there is a name of a person, Safwan Hito. Who's that?

A That's May's brother.

Q Do you know Mr. Safwan Hito?

A Yes.

Q And in the diagram, do you recognize Michael Kara?

A Yes.

Q All right, good. And, just to rap out the diagram for the moment, there is a – a long box below you, all the way below you, with a person by the name of Mazen Mardini, all the way at the bottom?

A Yes.

Q Who is Mr. Mazen Mardini?

A My brother.

Q All right. And we will come back to Andre Coudsi in a minute.

You said you first got to know Mr. Mounir Kara in or around 1992, through the Hito family. Correct?

A Correct.

Q Thereafter, did you socialize with Michael Kara?

A Yes, we became friends, and we kept visiting each other. We had a lot in common, and we became very close friends.

* * *

[694] often as Michael Kara?

A Yes.

Q All right. Were you in a position to observe the relationship between Maher Kara and his older brother, Michael Kara?

A Yeah. Mounir was like a second father to Maher. He was very protective of him. He took care of it him. And, my understanding, that he paid for all of his education.

Q Okay. From what you could see, were the two brothers close?

A They were very close.

Q All right. So let's turn to the subject of the stock market. And, I'm not quite yet done with Exhibit 1, please.

Did you and Michael Kara ever have occasion to talk about the stock market?

A We do. All the time.

Q Okay. So, I now want to kind of zero in on the period of time around 2003 through 2007 A smaller time period. Is that clear to you?

A Uh-huh.

Q During that time period, did you talk with Mr. Kara about the stock market?

A Yes.

Q So, describe the regularity or frequency with which you would speak about the stock market with Michael Kara.

* * *

[698] **A** I do. He was at my house. And he told me USPI – excuse me.

Q Take your time.

A That – "USPI is about to be taken over by another company. I don't know the time frame for that, or the price target of the takeover. Therefore, I would recommend buying some leap options on the stock to be on the safe side."

Q What is a leap option?

A A leap option is an option that expires only in January.

Q Do you consider leap options to be a sophisticated type of security in any way?

A I did. We never talked about it before, and I was kind of surprised when he told me that, too.

Q Why were you surprised?

A Because it's the right trade to do for that.

Q Why would buying leap options as they relate to USPI in the summer of 2006, under circumstances Mr. Kara described to you, be the right decision to make?

What does that mean?

A If you don't know the time frame for the stock, you have the option of either buying the actual stock, which you're going to put a lot of money for it, or buy an option. Options expires every month.

So in – in order to be on the safe side, to own that right to the stock is to buy longer period of options. And [699] those are the leap options.

Q All right. And, did you indicate that you do not recall an occasion prior to this in which Mr. Kara had suggested buying leap options?

A Yeah. He never did, before.

Q So is that a further indication of his sophistication as it developed in this time, in your mind?

A Yes.

Q All right. So, now, when you had this discussion with Mr. Kara about USPI, did you consider this to be confidential information that you were getting, in any way?

A I wasn't really sure at that point, but I thought, you know, it's coming from him, and considering that his brother is an analyst, and his knowledge of the high-tech – of the healthcare business is

increasing by the – every time we get together, I thought that might be an – an opportunity.

Q Okay. And, did you know where his brother was working at that point in his career?

A I didn't.

Q Did you know what he was doing, what – what his occupation was?

A I did. I know he was an analyst in the health-care business.

Q Okay. On Wall Street?

A On Wall Street.

[700] **Q** All right. And, did that – was it – there's something about the relationship between Maher Kara and Michael Kara that gave you confidence in what Michael Kara was saying about USPI?

A Yes.

Q What was that?

A The fact that he is an investment banker made – made a difference.

Q All right. So, once you and Mr. Michael Kara had discussed USPI, what did you do next?

A I directed my friend, Andre Coudsi to buy some options, some leap options for me, which he did. And the leap option expired, so we bought another set.

And finally, the stock was taken over right around February of 2007.

Q Okay. How did you do on your trading in USPI options?

A The takeover target or the premium was very small. So, we ended up not making money on that trade.

Q All right. Why did you ask Mr. Andre Coudsi to execute your trades for you?

A I had an arrangement with Andre, for him to do my option trades. My wife does not like me to do option trades in our personal account.

Q Okay. Let me move forward, if I could, to in or around March, 2007.

* * *

[702] **A** Nick Soto.

Q Let's go back to your conversation with Michael Kara that led to the trades you have described.

A Uh-huh.

Q What did Mr. Kara tell you about the takeover of Biosite?

A That Beckman is ready to acquire Biosite, right around 85.

Q $85 a share?

A $85 a share. Takeover target. And that the – the time frame is very tight.

Q Now, when Michael Kara told you, did you have an understanding whether it was public knowledge, whether it was known to all the other investors investing in the stock market that Beckman Coulter would be buying Biosite at $85 a share?

A It wasn't public.

Q It was not public knowledge. Okay.

A No.

Q Was that valuable information to you, Mr. Mardini?

A It was valuable.

Q Why was it valuable?

A It was an information that I could benefit from it, and act on it. It – it's exclusive information.

Q That it would be not known to other investors in the market?

A That's correct.

Q Okay. That was what you thought.

[703] **A** Correct.

Q And, that brings us to what Michael Kara said about "Don't go crazy."

What, what did that mean to you, Mr. Mardini?

A It meant that he really does not want me to buy a lot of options.

And my understanding is, just when the stock is taken over, the size of the trade or the – the size of the profit would alert the SEC and track down the trade.

Q If you went crazy and bought too many options, it might draw attention.

A Correct.

Q Is that some of the inferences that were working in your mind?

A That's correct.

Q Then, Mr. Kara continued. He went on to say, "Don't go crazy because our buddy might get in trouble"?

A Correct.

Q What word did Mr. Michael Kara use for the word "buddy"?

A He – during the conversation, we were going back and forth between Arabic and English. And the exact word that he used was "*sahibna*," which means "our buddy."

Q All right, you're going to have to spell *sahibna*.

A S-A-H-I-B-N-A.

Q And in the operation of your own mind, who did "our [704] buddy," "our *sahibna*," mean to you, Mr. Mardini?

A Well, the only mutual person that we both know that would be hurt if I went crazy and was discovered was Maher, in my own mind.

Q So you thought he was conveying information that came from Maher?

A Yes.

Q Did that make that information valuable to you?

A Yes.

Q Did you need to hear very much more about Biosite in order to be very interested in buying those securities?

A That's all it take. The whole conversation did not take more than three to four minutes.

Q So, did you think you now, with that three-to-four minute conversation, have an important advantage on other investors?

A Yes.

Q Had you ever discussed Biosite with Mounir Kara before?

A Never.

Q Okay. Did he mention anything about Jim Cramer or Mad Money – withdrawn.

Do you know the show Mad Money, and Jim Cramer, on television?

A Yes, yes.

Q In recommending Biosite to you on or around March 22, 2007, did he ever suggest that the recommendation was coming

* * *

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Pages 719-1024

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Friday
	) September 20, 2013
Defendant.	) 8:10 a.m.

TRANSCRIPT OF TRIAL PROCEEDINGS
(SEALED PORTION OMITTED)

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Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

[768] [MARDINI – DIRECT/REEVES]

Mr. Mardini. And, good morning Mr. Mardini. And, you may proceed.

NASSER MARDINI, PLAINTIFF'S WITNESS, RECALLED

MR. REEVES: Thank you, Your Honor.

Good morning, Mr. Mardini.

THE WITNESS: Good morning.

THE REPORTER: Excuse me. I just want to remind you, you're still under oath.

THE WITNESS: Yes.

DIRECT EXAMINATION RESUMED

BY MR. REEVES:

Q Do you understand that, sir?

A Yes, I do.

Q All right. Well, good morning.

A Good morning.

Q When we left off on Wednesday afternoon, you were testifying about the tip that Michael Kara gave you with regard to Biosite, in or around March 22, 2007.

Do you recall that testimony?

A Yes.

Q And, in substance, you said that Michael Kara told you, and I'm paraphrasing your testimony as carefully as I can, that there would be a takeover of Biosite by Beckman Coulter. Is that correct?

A Correct.

[769] **Q** That there was not a lot of time for you to invest; that it would happen soon. Is that correct?

A Correct.

Q Michael Kara urged you not to go crazy, as he put it, in buying securities relating to Biosite. Is that correct?

A Correct.

Q And he emphasized that "You should not go crazy because if you did it might hurt our *sahibna*," or "our buddy."

A Correct.

Q And you understand the reference to "our *sahibna*" or "our buddy" to be a reference to Michael Kara's brother, Maher Kara, at Citigroup.

A Yes.

Q All right. Now, when you got this information from Michael Kara, do you consider this inside information?

A Yes.

Q Confidential information?

A Yes.

Q Non-public information?

A Yes.

Q Valuable information to you?

MS. MOEEL: Your Honor, at this point we are going to object to the repeating of the testimony.

THE COURT: Overruled.

[770] **BY MR. REEVES:**

Q Did you consider it valuable information?

A Yes.

Q Why was it valuable to you?

A The urgency of the call, the name of the company, the time frame and the strike price. And the fact that he already gave me a tip earlier, a year ago,

with the Surgical Partners, USPI, made it valuable to me.

Q And is another way of expressing this concept of value to say that it was material information to you, Mr. Mardini?

A Yes.

Q All right. So after you had this conversation with Mr. Michael Kara, what did you did next with regard to any possible trading in Biosite securities?

A I – the next morning, I directed my friend, Andre Coudsi, to buy some options.

And I bought some Biosite in one of my friend's account that I have Internet access to it. His name is Nick Soto. And I told my brother about the stock, too.

Q You told Mazen Mardini about it?

A Yes.

Q And you traded on behalf of your friend, Nick Soto?

A Correct.

Q And you also entered trades through your friend, Andre Coudsi, but for your own benefit.

* * *

[779] **Q** Okay. And why did you decide to try to mislead the SEC?

A Well, I thought there is enough reference in Jim Cramer's report to a takeover, that the – for some reason, dissuade the SEC from continuing the investigation.

Q So, did you think you could pull off the cover story in a sense?

A Yes.

Q Okay. But I guess my question is a – a more simple one. Why not tell the SEC the truth? Why didn't you tell them that you invested in Biosite based on a tip from Michael Kara?

A. Because I know the tip came from Maher, and I was trying to protect Maher, too.

Q Okay. Protect him from what?

A Since he's an investment banker, he cannot share confidential information with anybody. And, I know by sharing the information with Mounir, he made a big mistake. And I was trying to protect him.

Q Were you also trying to protect yourself?

A Of course.

Q Were you trying to protect yourself from the possibility that you might be prosecuted for insider trading, for example?

A Yes.

Q And that others with whom you had been speaking might also be prosecuted?

A Yes.

[780] **Q** Like Michael Kara?

A Yes.

Q Like Maher Kara.

A Right.

Q Let me move forward, if I can, still further, to late in the year 2007. Or about December 6, 2007, were you contacted by the FBI in this matter?

A Yes.

Q Do you remember that occasion?

A Yes. They came to my office. To my work.

Q Okay.

A And, they basically introduced themselves as they're investigating the criminal action of insider trading. And basically I referred them, I told them that I need to speak to my lawyer.

Q So at that time, did you make any substantive statement to the FBI?

A On that meeting, no.

Q No. You didn't answer – agree to answer their questions?

A Correct.

Q And, made no substantive statement.

A Correct.

Q And instead, you informed them that you wanted to get a lawyer?

A Correct.

* * *

[MICHAEL KARA –
DIRECT EXAMINATION/REEVES

[911] **A** San Francisco State University.

Q And in what year did you – withdrawn. Did you obtain a degree?

A Yes.

Q In what year, approximately?

A '80-'81.

Q And, what was your degree in?

A Biochemistry.

Q Thereafter, did you go to medical school for a few months?

A Yes.

Q And after school, what did you do for a living?

A I went to graduate school. And I studied toxicology.

Q And where did you go to graduate school?

A San Jose State University.

Q Did you obtain a degree from San Jose State?

A No. But I was admitted to the candidacy for a master's degree in toxicology.

Q And how long were you at San Jose State?

A Three years.

Q All right. And, after you completed your education, will you please describe your career.

A I started in the hazardous waste business. And I worked for a couple of companies. Between 19 – maybe '85 or so, until 1989 to 1990, maybe. And, I worked in toxic waste management, primarily. And chemical waste packaging.

[912] And after that, I went on my own. And I started my own firms. Two companies.

Q Approximately when did you start your own businesses?

A In 1992-1993.

Q And have you continued to operate your businesses since that time?

A Yes.

Q Is that how you make a living?

A Yes.

Q And describe the nature of the business that you run.

A One business was sold, Applied Chemical Disposal, in 1995 or so.

But there is still one consulting business, a corporation, Applied Remedial Services, Inc. And, it's a general consulting services company. And, we basically do hazardous waste cleanups. General consulting for soil and water, ground water remediation. And investigation.

Q Where are your businesses located?

A In Walnut Creek.

Q Here in the Bay area?

A Yes.

Q Now, at their largest, how large did the business that you start grow to?

A The company was about 13 employees. And it grossed maybe three or four million dollars a year.

* * *

[916] **Q** Did the FBI sometimes pay for your meals?

A Yes.

Q Now, over the course of your lifetime, Mr. Kara, have you had mental health – health symptoms?

A Yes, I have.

Q Would you please describe your mental health symptoms.

A I've had some difficulties. Um, in 1999, I was diagnosed with a bipolar disorder. And, maybe shortly thereafter, another diagnosis with post-traumatic stress disorder. Compounded by depression.

Q Okay. Thank you. In or around January of the year 2000, was there a period of time when you were involuntarily committed?

A Yes.

Q And at or around that time, did – were you referred to a doctor by the name of Dr. Woolery?

A Yes.

Q Are you still under his care today?

A Yes, I am.

Q So you have been under his care for a long – an extended period of time, is that right?

A About 14 years.

Q Was – was the opportunity to receive the care from Dr. Woolery important to you?

A It was a turning point in my life.

* * *

[918] **Q** How do you feel right now?

A Good.

Q Okay, good. Is there anything about your medications that would prevent you from testifying to the best of your ability today?

A No.

Q Are those the same medications that you have been taking for a while, during the period of time that you have run your business?

A They're the same medications that I have been taking for the last maybe six, seven years now.

Q All right. Good. Thank you very much. Do you know Maher Kara?

A Yes.

Q Who is Maher Kara?

A He's my younger brother.

Q Were you close to your brother, Maher?

A Very much.

Q Okay. And, over the course of your lifetime, in your own words, how would you describe your relationship with your brother, Maher?

A It was a very close relationship. More so, a relationship of a big brother to a younger brother.

More of a father-son type relationship. And, you know, we grew together.

And, it's very unfortunate that this case has occurred [919] because, you know, because of the attorneys involved, we can't talk to each other any more. So I've lost touch with him for a while.

Q So in the last few years, you have not been able to continue your relationship with Maher Kara? Is that your testimony?

A That is correct.

Q Okay. Well, we will focus on the period of time before 2007, going back in time. Is that clear?

A Yes.

Q How much older are you than your brother, Maher?

A Eleven or 12 years.

Q So who was the father figure, so to speak, to whom?

A I was.

Q And describe what you mean by you were the – you tried to be a father figure to Maher. What does that mean to you?

A I was the eldest in the family. Then there was my sister, who is about four or five years younger. And then there was Maher. Sort of like the baby in the house.

Q All right. Now, as – as Maher grew up, did you know what he did for a living?

A Excuse me. Yes.

Q And, once he completed his school, what did he do for a living?

A Maher became a banker. An investment banker. In New York [920] City.

Q All right. And did he have that career for a number of years?

A Yes.

Q Did you speak with him about his career?

A Yes.

Q All right. In any sense, before beginning his career, did you help him in any way with his education?

A Yes, I did.

Q How did you help Maher with his education?

A Maher went to University of Chicago business school. And, he needed some form of assistance for the MBA program.

Q Financial assistance?

A Yes.

Q Go on. What did you do?

A I had an additional $50,000, and I made sure that – gave him, you know, through my father. Because I didn't think he would take it directly, so I gave it to Dad, and Dad gave it to him.

Q All right. After he – after Maher finished his MBA, did you continue to do what you could to help him with his career?

A Yes. Yes.

Q And in what ways did you try to help Maher with his career? What did you do?

A Maher was in the high-technology group until 2003. And, [921] the high-technology group was recovering from the dot-com crash. And, the market had taken a turn for the worst. And he needed to get out of that group.

So, he came to me, and he asked me what would – what would be the best area to specialize in. And, I told him, healthcare would be the approach. And specifically, biotechnology.

Q Why did you recommend healthcare, and specifically, biotechnology?

A Because it's an area that I really understood, myself. And, I think the it was the most promising area for Maher.

Q What advantage, if any, did the fact that you understood biotech in the manner you have described, how would that have helped Maher?

A I – I was a trained biochemist, with advanced knowledge in toxicology. And, I could support Maher in the basic sciences. And at the same time, Maher had an MBA from a top-notch university.

So, I could assist him to assimilate in his new job by supporting him with information that he needed in case – in case he wanted to make that transition into the healthcare group.

Q Is that what happened?

A Yes.

Q And were there then discussions between you and your [922] brother, Maher, about biotech, generally?

A Yes.

Q Would you please describe those discussions.

A The discussions originated because of the ailment that my father had. My father was diagnosed in the beginning of 2004 with non-Hodgkins lymphoma, which developed into a serious brain tumor. And we started talking about basically all the companies that developed anti-cancer drugs, and how efficacious these cancer drugs could be to my father's problems.

And from there, the conversation transcended beyond that, into the different companies that manufactured anti-carcinogens. And from there, the conversation grew outside of the realm of my father's drugs into other companies that Maher was working on.

Q Okay. Let me follow up a little bit on your answer.

Did Maher make the transition to the healthcare group, and to biotech companies in particular, in or around the year 2003?

A Yes.

Q And at that time, did you have discussions that you recall with him about some of the science associated with biotech companies?

A Yes.

Q And was it your intention to help him by teaching him, in [923] a sense, about that science?

A As much as I could.

Q All right. And did your discussions with him then progress to discussions of the actual companies that sold particular biotech products and drugs?

A (Nods head)

THE COURT: Speak –

THE WITNESS: Forgive me. Yes. Yes.

BY MR. REEVES:

Q All right, good. All right.

And so in that way, in that time period, in or around 2003, did the discussions you are describing extend into public companies in the healthcare sector, and the drugs and products that they made?

A Yes.

Q And the performance of those companies?

A Yes.

Q All right. So, I will come to your father's illness in a minute. But I want to ask you if in or around the same time period, getting into 2004 but now extending to in or around 2007, did you, yourself, Mr. Kara, trade in the stock market?

A Yes.

Q Okay. How would you describe yourself is as a – as an investor in the stock market during that time period?

A I was – I was an active trader in the options market.

[924] **Q** What does that mean to you, to say you are an active trader in the options market?

A I traded almost on a daily basis, in – in options.

Q Now, describe the sorts of things that you would need to focus on in order to trade daily in options in the stock market. How time-consuming or difficult was that for you?

A You know, dealing in options is not a simple thing. It really isn't. You have to know many parameters.

And, at the same time, it's such a volatile atmosphere that you need to be very quick, and you need to know certain models, and you need to understand the fundamentals of certain issues. And, you need to have a little bit of money set aside for that. And, you need to have a little bit of a gambler's mentality. Because you could lose everything that you have, in a split-second.

So, if you have all of those combinations, then you're ready for the options market.

Q Okay.

A And then – (Nods head)

Q Now, did you use any trading software to assist you in your trading in the options market in or around 2004 to 2007?

A I had to. I used training software put out by Charles Schwab, called Street Smart Pro.

Q What is Street Smart Pro?

A Street Smart Pro is an active trading software made out

* * *

[926] **Q** And in that period of time, or in or around 2003, did you come to know a person by the name of Bassam Salman?

A Yes.

Q And how did you know Mr. Bassam Salman?

A Sam Salman is the younger brother of Susie.

Q All right. And, did you – what was the circumstance under which you got to know Mr. Bassam Salman? Was it during the meetings of the families that you have described?

A Yes.

Q Okay. Describe how you came to know him during this time period, in that process, please.

A I – you know, we are almost the same age. And, we took a liking to each other. And we shared some business ideas.

And, we sort of clicked from the beginning.

Q You what?

A We clicked from the beginning.

Q You clicked from the beginning. All right. Did you become friends with him, in a sense?

A Absolutely.

Q All right. Did you have an opportunity in this time period, at or around the time Maher and Susie are considering getting married, to discuss your brother Maher directly with Mr. Bassam Salman?

A Of course.

Q And, what sort of things would you and Bassam Salman [927] discuss with regard to Maher?

A We discussed basically, you know, what Maher did, what's his position, what his life is like, where he's going to live, where Susie is going to live. And, basically, you know, the kind of person that Maher is. And just, some general information about Maher. Their future brother-in-law.

Q What discussions do you recall with regard to Mr. Salman about what Maher Kara did?

A Specifically, you know, I – I told him that Maher was a banker with Citigroup.

Q All right. Go on.

A That he works in New York. And more so, that he works hundred-hour weeks, and that I'll help them, you know, initially. And that they'll probably end up living in New York. And, you know, Susie will enjoy New York, and that sort of thing.

And basically, I gave him an idea of what a banker's life would be like.

Q Well, what is a banker's life like? What do you mean by that?

A A very difficult life, you know, very stressful life.

Q Because of the work hours?

A Yes.

Q Okay. And what was his reaction to that?

A He was very understanding.

* * *

[935] Abraxane, manufactured by American Pharmaceuticals, also known as APPX?

A Yes.

Q Describe the detail, if you would, about what it is you and Maher are talking about in 2004 about Abraxane and APPX.

A We would discuss basically the potential for Abraxane to be utilized by the physician, by the oncologist that is treating my father, to use Abraxane on my dad for the tumor. And whether we can get him a permission from the FDA to use Abraxane.

At the same time, we would discuss APPX, the manufacturer of Abraxane, and then the conversation would transcend into the profit-and-loss statement of APPX, the options charts at APPX, and how much money was APPX worth.

And it was a one-drug company, and it would be an acquired – who would acquire APPX. And, how to make money on APPX. It would be a target takeover, et cetera.

Q So, is it fair to say, in any sense, that the conversations over time with Maher Kara evolved from the – the pharmacology, if that's the correct word, associated with Abraxane into the performance and specific stock performance of APPX?

A Yes.

Q All right. I would like to show you what has been marked as Government Exhibit 100.

[936] **MR. REEVES:** If I may approach, please?

THE COURT: Yes.

BY MR. REEVES:

Q Do you recognize Exhibit 100?

A Yes.

Q What is Exhibit 100?

A Exhibit 100 is a fax – forgive me, an e-mail.

Q Are you one of the recipients of the e-mail?

A Yes.

Q Are you the author of the e-mail?

A Yes.

Q And who is the other recipient of the e-mail?

A Maher.

Q So this is an e-mail from you to your brother, Maher?

A Yes.

Q On or about what date?

A June 3rd, 2004.

Q Now, in this e-mail, do you – are you discussing APPX?

A Yes.

MR. REEVES: At this time I offer Exhibit 100 in evidence.

MS. SHIFMAN: Hearsay, Your Honor.

THE COURT: Overruled. 100 is admitted.

(Trial Exhibit 100 received in evidence)

(Document displayed)

[937] **MR. REEVES:** If we could enlarge the top part. And if we could highlight, please, the portion of the text that reads " Janine's dress "

(Document highlighted)

MR. REEVES: Good. And if you could also highlight, please, the e-mail address for Maher Kara. Thank you.

(Document highlighted)

BY MR. REEVES:

Q So, Mr. Kara, you write to your brother on June 3rd, 2004, the following e-mail. Would you please read it?

A (As read)

"Maher, I understand habibi. When yu have a chance & call me back please remember that I need Janine's dress size from yu. Luv yu, your brother, MK."

Q Now, there's a reference to "Janine's dress size." What is that a reference to?

A APPX's acquisition price.

Q Why are you using the words "Janine's dress size" for APPX's – I think you said "acquisition size," if I heard you correctly?

A "Acquisition price."

Q "Acquisition price." Why do you use the word "Janine's dress" to talk about APPX?

A Um, Citigroup monitors traffic on the e-mail system. So, if I put down "APPX acquisition price," I don't think they [938] would look at this very kindly.

Q Was "Janine's dress" a code word for APPX?

A Yes.

Q And why were you speaking with your brother about the performance of APPX in this manner in this time period, Mr. Kara?

A I was trying to get APPX's potential acquisition price from him.

Q In this time period, did you have an understanding as to whether Maher Kara had access to that kind of information?

A Yes.

Q What was that understanding?

A That he had access to this kind of information.

Q How would he have that access?

A By – because of his position at Citigroup.

Q Did you know if there was any relationship between Citigroup and APPX in this period?

A Yes.

Q What was your understanding of what that relationship might have been?

A Citigroup was representing APPX.

Q All right. Were you seeking information that may have been confidential at this time period?

A Yes.

Q For what purpose?

[939] **A** For profit.

Q To trade on it?

A Yes.

Q All right. Did you have a series of e-mails with your brother, in which you are talking in this type of code?

A Yes.

Q Where you are using the term "Janine's dress" for APPX?

A Yes.

Q In order to convey information that you didn't want Citigroup to know you were talking about?

A Yes.

Q All right. I would like to show you what has been marked as Government Exhibit 99.

MR. REEVES: If I may approach, please?

THE COURT: Yes.

(Witness examines document)

BY MR. REEVES:

Q Do you recognize that document?

A Yes.

Q What do you recognize it to be?

A It's a similar e-mail, except this time it is from Maher to me.

Q All right. Is this an e-mail between you and Maher Kara, on or around June 3rd, 2004, where

you're using the "Janine's dress" code word for a discussion about APPX?

[940] **A** Correct.

MR. REEVES: At this time I offer Exhibit 99 in evidence.

MS. SHIFMAN: Same objection.

THE COURT: All right. 99 is admitted, objection is overruled.

(Trial Exhibit 99 received in evidence)

(Document displayed)

MR. REEVES: And if we could enlarge the top e-mail, please.

(Document displayed)

MR. REEVES: And if we could highlight at the extreme lower right-hand corner of the sentence that begins, "I will let you know . " et cetera, until the end of the sentence.

(Document highlighted)

MR. REEVES: That's great. Thank you very much.

BY MR. REEVES:

Q So, Mr. Kara, would you please read the highlighted portion of your brother's response to your e-mail on or around June 3, 2004.

A (As read)

"I will let you know about Janine's outfit as soon as possible."

Q What was your understanding about what Maher Kara was communicating in this e-mail to you?

[941] **A** He will let me know what the acquisition price will be.

Q For what company?

A APPX.

Q Thank you. Let me show you what has been marked as Government Exhibit 101.

MR. REEVES: If I may, please?

THE COURT: All right.

(Witness examines document)

BY MR. REEVES:

Q Do you recognize Exhibit 101?

A Yes.

Q What is this?

A This is an e-mail from me to him. From me to Maher.

Q Is this another e-mail between you and Maher on or around June 3rd, 2004, about Janine's dress size, also known as APPX?

A Yes.

MR. REEVES: At this time, I offer Exhibit 101 into evidence.

MS. SHIFMAN: Continuing objection.

THE COURT: All right, overruled, admitted.

(Trial Exhibit 101 received in evidence)

(Document displayed)

MR. REEVES: If we could enlarge that, and highlight the subject line, please.

(Document highlighted)

[942] **BY MR. REEVES:**

Q And would you read your e-mail to your brother, June 3rd, 2004, at or around 5:49 p.m., Mr. Kara, please.

A (As read)

> "Understand habibi, I did not mean to bother yu, please remember her size, although she is nine she weighs 73 pounds. Can yu believe it No more Cadbury or Godiva Chocolate for this baby."

Q Were you joking with him?

A Yes.

Q All right. Let me show you what has been marked as Government Exhibit 102 for identification.

MR. REEVES: If I may approach, please?

(Witness examines document)

THE WITNESS: Yes.

BY MR. REEVES:

Q Do you recognize this document?

A Yes.

Q What do you recognize it to be?

A An e-mail back from Maher to me.

Q In response to the last e-mail?

A Yes.

MR. REEVES: At this time I offer Exhibit 102 into evidence.

MS. SHIFMAN: Continuing objection.

[943] **THE COURT:** Okay. Overruled, admitted.

(Trial Exhibit 102 received in evidence)

(Document displayed)

BY MR. REEVES:

Q If you could read Maher's response to you, Mr. Kara, please.

A (As read):

"You are hilarious. You don't bug me, its just hard to figure it out continuously. Maher F.

Kara, Healthcare Investment Banking, Global Markets."

Q What was your understanding of what your brother Maher was saying when he said "It's hard to figure it out continuously"?

A It's a fluid situation that develops over time. And that he doesn't have a lock yet on the price.

Q Of APPX?

A Yes.

Q Not Janine's dress size.

A No.

Q I would like to show you Exhibit 103 for identification.

MR. REEVES: If I may approach, please?

THE COURT: Yes.

(Witness examines document)

BY MR. REEVES:

Q Is this another e-mail on this same subject in or around this same time period?

[944] **A** Yes.

Q Between you and your brother Maher, on or around June 4, 2004?

A Yes.

MR. REEVES: At this time, I offer Exhibit 103 into evidence.

MS. SHIFMAN: Continuing objection.

THE COURT: All right, overruled, and admitted. (Trial Exhibit 103 received in evidence)

BY MR. REEVES:

Q I'll let you summarize this.

This is a further discussion in which "Janine's dress" is used as a code for APPX? Is that correct, Mr. Kara?

A Um –

(Witness examines document)

MR. REEVES: If we could put it on the screen, please?

(Document displayed)

THE WITNESS: Yeah. Yes.

MR. REEVES: And if you could highlight the second line in the middle, the word "Janine," please. The second paragraph, second line right, in the middle. That's great.

(Document highlighted)

MR. REEVES: Okay, good.

[945] **BY MR. REEVES:**

Q Can you read the highlighted portion of your e-mail, please, Mr. Kara?

A (As read)

"Janine has a half day at school and me and Dad will pick her up."

Q Okay. What are you conveying there?

A That's what it is. I don't think there's any hidden message there.

MS. SHIFMAN: I'm sorry, Your Honor; I can't hear.

THE COURT: Okay. Could you say it a little louder, into the microphone?

THE WITNESS: Sure, Your Honor. Janine has a half day at school and Dad will pick her up. (sic)

BY MR. REEVES:

Q Okay. Thank you very much.

A You're welcome.

Q I would like to show you Exhibit 102, please. 104. 104.

MR. REEVES: If I may approach, please?

THE COURT: Yes.

BY MR. REEVES:

Q Do you recognize Exhibit 104?

A Yes.

Q What is this?

A It's an e-mail from me to Maher.

[946] **Q** Who was Janine? Was she a relative?

A My daughter.

Q Okay. Did she have a website?

A No.

Q Okay. Good. Do you recognize Exhibit 104?

(Witness examines document)

A Yes. Yes.

Q Okay. And what is it?

A It is an e-mail from me to Maher.

Q Is this another one of the e-mails that is discussing APPX, using the code word "Janine" or –

A Yes.

MS. SHIFMAN: Objection, Your Honor. He is leading him.

THE COURT: All right. Rephrase the question.

BY MR. REEVES:

Q Is there a discussion about Janine's dress in this e-mail? Or Janine, in this e-mail?

(Witness examines document)

Q And let me direct your attention to the second paragraph.

(Witness examines document)

A Yes.

Q Okay.

MR. REEVES: At this time I offer Exhibit 104 in evidence.

[947] **MS. SHIFMAN:** Objection, Your Honor.

THE COURT: All right. Overruled. And admitted.

(Trial Exhibit 104 received in evidence)

BY MR. REEVES:

Q Is this another e-mail between you and your brother, discussing the same subjects as some of the other e-mails?

(Document displayed)

A Yes.

Q All right. I have three more. Let me show you what has been marked as Government Exhibit 105 for identification. Do you recognize this exhibit?

(Witness examines document)

A Yes. This is an e-mail from Maher to me.

Q Again, on the same subject?

A Yes.

MR. REEVES: At this time, I offer Exhibit 105 in evidence.

MS. SHIFMAN: Continuing objection.

THE COURT: Overruled, and admitted.

(Trial Exhibit 105 received in evidence)

(Document displayed)

MR. REEVES: If you could enlarge the whole e-mail, that's great. And then highlight the portion, the last sentence of the top e-mail, please. Starting with "Moni."

(Document highlighted)

[948] **BY MR. REEVES:**

Q So, help us understand this e-mail dialogue, Mr. Kara. You write to your brother in the lowest e-mail, at the bottom. What do you write?

A (As read)

"Moni, I don't have any updates on Janine – nothing to share yet and as soon as she tells me about the outfit, I will let you know."

Q I'm sorry; I wasn't clear in my question. My question started with the lower e-mail that's not yet highlighted, from you to your brother, on June 5th, at 20:51:51.

Do you see that?

A Yes.

Q What do you write?

A "911MK."

Q What does that mean?

A "911MK" is – that is an immediate phone call back.

Q Was that a – what's – withdrawn.

The reference to "911." What does that mean?

A That is an immediate phone call back.

Q Is that a reference to the emergency phone line for people to use if there is an emergency?

A Yeah.

Q Was this a signal that you and your brother had worked out in this time period?

[949] **A** Yes.

Q Did it relate in any way to the care of your father, and his circumstances?

A Yes.

Q All right. And when you sent "911MK" to your brother, Maher –

A Yeah.

Q – what was your expectation that he would do?

A Call back immediately.

Q Because of some circumstance that may be associated with your father's illness?

A Correct.

Q All right. So, then, if we could now look at Maher Kara's response, what – if you could just read the first two lines, please.

At the top of the e-mail, not the part that's highlighted yet, but what does Maher Kara respond to you in the first two sentences, please?

A (As read)

"I tried your cell several times, it just goes to Vmail. Please do not send out the 911 messages unless they are for dad."

Q All right. Was this an instance where you were sending out a 911 message that was not for your father?

A Correct.

[950] **Q** What did you want your brother to respond so quickly to you about?

A There must have been an activity on the market.

Q Were you focused on APPX?

A Yes.

Q All right. Now would you please read the highlighted part of Maher Kara's response to you, on or around June 6, 2004.

A (As read)

"Moni, I don't have any updates on Janine – nothing to share yet and as soon as she tells me about the outfit, I will let you know."

Q Was that code, in any way?

A Yes.

Q What is the code for?

A Code for he's getting the information from a fellow banker, and as soon as he gets this information, he will let me know.

Q All right. Let me show what you has been marked as Government 106, please.

(Witness examines document)

Q Do you recognize this document?

A Yes.

Q What do you recognize it to be?

A An e-mail from Maher to me.

Q In or around June 11, 2004?

[951] **A** Yes.

Q Is it about the same subjects?

(Witness examines document)

Q Directing your attention to first e-mail at the top, if that helps.

A Yes.

MR. REEVES: Okay. At this time I offer Exhibit 104 (sic) into evidence.

MS. SHIFMAN: Continuing objection.

THE COURT: Overruled and admitted.

THE CLERK: You mean 106?

MR. REEVES: 106, please.

(Trial Exhibit 106 received in evidence)

(Document displayed)

MR. REEVES: And if we could enlarge, as much as possible, the whole thing. All the way down. Great.

And highlight at the very bottom, the second to last line that reads " please look at a dress for

Janine . . " and then the answer on the top e-mail that begins in the second sentence, "Will do "

(Document highlighted)

MR. REEVES: Perfect. Thank you so much.

BY MR. REEVES:

Q All right, Mr. Kara, would you please read the highlighted portion of your e-mail on the bottom, to your brother, on or [952] about June 10th, 2004.

A (As read)

"Please look for a dress for Janine. Your help is much appreciated."

Q And what do you mean by that?

(Witness examines document)

A Again – looking at APPX.

Q It is about APPX?

A Yes.

Q You are looking for more information?

A Yes.

Q And what does your brother respond in the e-mail above, in the highlighted portion?

A (As read):

"Will do on the Janine front."

Q Okay. So is he working with you, and trying to give you the information you're asking for?

A Yes.

Q All right. Last e-mail on this subject. Let me show you Exhibit 107, please.

MR. REEVES: If I may approach?

THE COURT: Yes.

(Witness examines document)

BY MR. REEVES:

Q Do you recognize Exhibit 107?

[953] **A** Yes.

Q What do you recognize it to be?

A It is an e-mail from me to Maher.

Q On or around July 21, 2004. Is that correct?

A Yes.

Q And is this about the same subject, Janine's dress?

MS. SHIFMAN: Objection, leading.

THE WITNESS: Yes.

THE COURT: Overruled.

MR. REEVES: At this time, I offer Exhibit 107 into evidence.

MS. SHIFMAN: Continuing objection.

THE COURT: Overruled, and admitted.

(Trial Exhibit 107 received in evidence)

(Document displayed)

MR. REEVES: If we could enlarge it?

BY MR. REEVES:

Q And Mr. Kara, if you would be kind enough to please read what you write to your brother Maher, on July 21, 2004.

A (As read):

"Hi Maher, I'm so sorry to bother yu again. I forgot to tell yu that the last call for Janine's dress is tomorrow morning. Luv yu, MK."

Q What did you mean by "the last call for Janine's dress is tomorrow morning?"

[954] **A** "The expiration for the calls is happening tomorrow morning. You better act."

Q And, was that – withdrawn.

Did that create a sort of investment circumstance that created urgency for you?

A Yes.

Q And, would you describe what that urgency was? What do you mean?

A The calls are expiring tomorrow morning.

Q And so, you needed to know what?

A We needed to know if there's going to be an acquisition or not.

Q Otherwise, what would happen?

A The calls would expire, worthless.

Q Expire, worthless (Indicating). And what does that mean?

A We lose the premiums.

Q Lose all your money?

A Yes.

Q All right. Okay. Let me show you another e-mail in this time period, on a different subject, I think.

If I could show you Exhibit 222, for identification.

MR. REEVES: Can I approach, please?

THE COURT: Yes.

(Witness examines document)

* * *

[957] **A** Um, Maher has a relationship with Remi Barbier, who is the CEO of Pain Therapeutics. So I was always on the lookout for these companies that he had a very close relationship with.

Any time I picked up any information on that, in his busy schedule, he doesn't have time for this. I have sent him information on them.

Q To help him?

A Yes.

Q All right, good. Thank you. I'm done with that.

MR. REEVES: Your Honor, what schedule would the Court like to follow this afternoon?

THE COURT: Well, we probably should go another 20, 25 minutes, then take a break. Or maybe another 20 minutes, 15, 20 minutes, and take a break.

MR. REEVES: Sounds good. Thank you very much.

BY MR. REEVES:

Q Mr. Kara, I would like to direct your attention to an extended period of time, some of which we have been talking about today, but ask a series of generalized questions, and then come into it in more detail.

And the time period that I'm focusing on is the year 2004 to 2007. Okay? Is that time period clear to you?

A Yeah.

Q Beginning in or around 2004 and continuing to 2007, did you obtain confidential non-public material information from [958] your brother, Maher Kara?

A Yes.

Q And in this period, did you use this inside information to trade securities?

A Yes.

Q When you did that, sir, did you understand that it was illegal to do that?

A Yes.

Q Have you ever had any special training in the laws of securities regulation?

A No.

Q Have you had any special training in the laws of insider trading?

A No.

Q So, at the time you are doing this, how did you know it was illegal?

A Just newspaper articles and things of that nature.

Q And, did the material non-public information that you got from Maher Kara give you an advantage in your own mind over other investors in the marketplace?

A Probably.

Q How could having inside information give you an advantage over other investors?

A It would give me – it give me advantage, because it would provide for me timely information that the average person does [959] not have access to. Therefore, it would provide for me access to stocks, options, and what have you, that I can capitalize on, that the average person would never have or dream of.

Q Okay. And they wouldn't have it, because it wasn't known to the public. Is that right?

A Exactly.

Q And, is that what made it valuable information to you?

A Yes.

Q Precisely the fact that others in the marketplace did not have it.

A No.

Q All right. So in this period, Mr. Kara, did you share some of this confidential non-public material information, this inside information that you were obtaining from Maher Kara, with other persons?

A Yes.

Q Keep the microphone up to you.

A Yes.

Q Okay. And, did you inform any of those persons that any of your information was coming from your brother, Maher –

MS. SHIFMAN: Objection. Leading.

THE COURT: Overruled.

MR. REEVES: I'll start again.

BY MR. REEVES:

Q Did you inform any of those persons that your information [960] was coming from your brother, Maher Kara?

A Yes.

Q And was the fact that you were getting inside information from Maher Kara something that you wanted to be careful about before you shared it with others?

A Yes.

Q Mr. Kara, who were the persons to whom you disclosed the confidential, non-public, inside information, and also disclosed that it was coming from your brother, Maher?

A Joseph Azar, Nasser Mardini, and Bassam Salman.

Q And, in time, if you recall, who did you disclose that information to first? Who did you first

disclose that you had inside information and it was coming from Maher, of the three people you just mentioned?

A Sam Salman.

Q I would like to show you what has already been received in evidence as Government Exhibit 1.

MR. REEVES: If I again may approach, please?

THE COURT: Yes.

(Document displayed)

BY MR. REEVES:

Q Mr. Kara, do you recognize some of the people on this diagram?

A Yes.

Q Does this fairly and accurately summarize at least three

* * *

[976] sort of fluid. It was on hold. They didn't know what to do. So, the situation came to a halt.

Q As to the wedding planning.

A Correct.

Q Okay. Pending, you know, the duration of your father's illness?

A Exactly.

Q All right. So, again, in or around September, 2004, did Bassam Salman, as part of the Salman family, visit with the Kara family while your father was sick?

A Yes.

Q And do you remember him coming to visit you during that time period?

A Yes.

Q And, around this time, did you and Mr. Bassam Salman have an opportunity to discuss the stock market?

A Yes.

Q Do you recall those discussions?

A Yes.

Q What do you recall discussing with him about that?

A It was our first introduction, you know, to the stock market at that time.

Q What do you mean by that?

A Well, it was the first serious introduction to basically exchanging ideas and exchanging information. It's the first [977] time that I basically gave him stock information.

Q So, help us understand the nature of this conversation, this more serious conversation about the stock market that you are describing.

A I – I asked him if he dealt with stocks. And he said, "A little."

And I told him that I dealt with stocks a lot. And I – I gave him the names of certain companies that I was dealing with on a daily basis. Maybe four or five companies.

And, I – I told him, "Go at it. Make some money."

Q And did that begin a more regular discussion between you and Bassam Salman about the stock market?

A Yes.

Q How regularly did you and Mr. Salman then begin to discuss investing?

A Very regularly.

Q So, tell us what you mean by that.

A We talked at least twice to three times a week.

Q And, now, through that time, was there anything that Mr. Salman indicated about his level of knowledge relating to options investing?

A He said from the get-go, that he did not do options.

Q Okay.

A He was very honest with me.

Q And did you and he discuss options investing?

[978] **A** Yes.

Q What did you talk about?

A I told him about Street Smart Pro, and I think we sat down on the computer, and we showed the – we ran – we had some dry runs. And we – we sort of, like, made believe that this is an option transaction.

And, we – I showed him Street Smart Pro, and how it acted. And we explored the different avenues and the different transactions that it went through.

Q And were you teaching him, in any sense?

A Yes.

Q So there was this dynamic in which you were showing him. Is that your testimony?

A Yes.

Q Okay. And thereafter, what, if anything, did you understand Mr. Salman was doing with the information that you taught him about Street Smart Pro?

A He called me back, and he said that he started to buy.

Q He started his own investing?

A He started his own investing.

Q All right. Now, in this time period through the fall of 2004, during these more regular discussions, as you've described them, did Bassam Salman ask any questions about where your investment strategies were coming from?

A Yes.

[979] **Q** What kind of questions did he ask?

A Direct.

Q Direct, okay. What did he ask you?

A "Where was the source of this information coming from?"

Q And what did you tell him?

A "Maher."

Q And, what else did you discuss on that subject?

A Um, the companies, how were we coming up with the companies. Which companies were involved, and why. Which companies are –

MS. SHIFMAN: Objection, Your Honor. Very general. No time frame, no companies, no dates.

THE COURT: Overruled. You can continue.

THE WITNESS: Well, let's break it down.

BY MR. REEVES:

Q You're doing fine. Just keep going with your answer. Tell us what you mean.

A Yeah. The first companies that we discussed were basically very simple. The companies that we discussed were one-drug companies. And the companies that we discussed were Pain Therapeutics, Endo, Amylin, and Encysive.

Then it became more developed, as time went on. This is now in the September to November 2004 arena.

As time – in the fullness of time, things got a bit more complex. Now, we're dealing with basically January to May of [980] 2005. He needed to make more money.

So, things, I had to give him more. So I started throwing in more companies. And then, any time a major deal came in, he was the first on my phone list.

Q So, what was your motivation in helping him this way, in the way you've just described?

A My motivation for helping him, he was my family. Number one. And number two, the most important fact was Maher was marrying their sister.

Q What do you mean by that? I mean, what – what was the motivation?

A Maher was marrying – Maher was marrying their sister. And it was of tremendous importance

that Maher was, in their eyes, you know, the number-one person. And, you know, it was very basic. It was a very basic understanding.

Q In your own mind, how did your discussions with Mr. Salman about the stock market promote the extent to which Maher was the number-one person in their eyes? What do you mean?

A Well, you know, what I meant by that was that they needed to understand that Maher was the source of the information. And that Maher was the source of this capital that was being infused. And as such, they need to look at Maher from a different perspective.

Q What perspective were you encouraging?

A A gentleman, a man who's about to make them rich.

[981] **Q** Okay, fine. Okay, what's the – in your discussions with the Salmans, including – withdrawn.

In your discussion with Bassam Salman, –

A Yes.

Q – was there any sense that that was an important priority for Mr. Salman, for the marriage of his sister, Susie?

A Exactly.

Q That Susie marry someone who would be rich, for example?

A Susie would be very comfortable and well taken care of.

Q Was that important to Mr. Salman?

A Very important.

Q All right. So, let me direct your attention to on or around November 12, 2004. At or about that time, did you invest in Amylin?

A Yes.

Q All right. I would like to display the second page of Exhibit 112, and Mr. Kara, if you would please look at Exhibit 112.

(Document displayed)

Q Exhibit 112 which is being displayed, those are portions of your trading records. Is that correct?

A Yes.

Q All right.

MR. REEVES: And if we could enlarge the top part of the document, and highlight the trading that is occurring in [982] Amylin on or around November 12th.

(Document highlighted)

MR. REEVES: That's great, that line there. Just above it –

(Document highlighted)

MR. REEVES: Okay. And maybe extend to the trading above it.

(Document highlighted)

MR. REEVES: Great.

BY MR. REEVES:

Q So, on the screen is a copy of your trading records that reflects a trade on or around November 12, 2004, in Amylin. Do you see that, Mr. Kara?

A Yes.

Q What were the circumstances under which you invested in Amylin?

A Amylin manufactured an anti-diabetic drug. And, it was a very unusual drug. And Amylin was a one-drug company, waiting to be acquired. And so, I started buying calls in Amylin.

Q Okay. Did you discuss Amylin with your brother, Maher, in or around this time period?

A Yes.

Q And what information did you learn about Amylin from your brother?

A That Amylin would be acquired within a matter of maybe six [983] months.

Q And so, what effect did his death have on you, sir?

A It was devastating.

Q And, were there times following your father's death when you felt like hurting yourself?

A Yes.

Q Taking your own life?

A Yes.

[987] **Q** Yes?

A Yes.

Q And was that because of the grief associated with your father's passing?

A Yes.

Q Let us move a little bit further forward, now, to the memorial service. Did that occur in or around late December, 2004?

A Yeah.

Q Do you remember the memorial service?

A Yes.

Q Do you remember Bassam Salman coming to the memorial service?

A Yes.

Q And at or about this time, when Mr. Salman came back to California from Chicago, did you have another opportunity to speak with him about the stock market and about investing?

A Yeah.

Q Did your conversation in a sense continue from the one you had had earlier that year?

A Yes.

Q Describe what you and Mr. Salman talked about when he came out to California in late 2004, about the stock market.

A We – at that time, Bassam helped me, after – right after the memorial service, at the house. And he saw a significant [988] amount of papers in – in my office. And, he helped me turn the papers around, because it was a lot – 150 people coming to the house. And then, I think he noticed the magnitude of the operation.

Q What do you mean by "the magnitude of the operation"?

A That I wasn't watching a stock or two, and I wasn't a novice at this. That I was really doing this full-time.

Q Go on. What happened, as you and he are – are going through your papers?

Q Okay. And did that make it a better or worse investment, from your perspective?

A A better investment.

Q Because it would be acquired?

A Yes.

Q And the price might go up.

A Yes.

Q All right. In this time period, at or about the time that you are investing in Amylin, do you recall discussing it with Mr. Bassam Salman?

A Yes.

Q What, what do you recall about that discussion with Mr. Salman?

A I told Bassam that Amylin would be a prime company to be acquired, because it was a one-drug firm at the time. And that, to buy Amylin.

Q Did he ask you any questions?

A No.

Q So what happened, to the best of your knowledge?

A Um, to my knowledge, he was mirror-imaging my trades. Anything I – anything that I bought, Bassam was buying. I was very transparent with him.

Q He was mirror-imaging your trades?

A Yes.

* * *

[986] **Q** Was there a funeral?

A Yes.

Q All right. And thereafter, was there another memorial service, approximately 40 days later?

A Yes.

Q Is that later in December?

A Yes.

Q Mr. Kara, was that a difficult time for you?

A Very.

Q Would you help the jury understand the difficulties that the death of your father created for you?

A My father died young. He was a very young man. He was 64 years old. And the relationship between myself and my father was a very close relationship. He was like – we were like almost brothers. You know. There wasn't much age difference between us, you know. And, so, as such – and we worked together for 20 years in the industry.

So, this is – this is very important, you know, for me.

A We – I – afterwards, we had a chance to talk. And, and he specifically asked me, "Where's the source of all of this information?" You know.

And I told him, specifically, "Maher."

Q And did you continue to talk about the investment strategies that you were pursuing at that time?

A Yes.

Q Did any of those investment strategies include the company known as Encysive?

A Yes.

Q I would like to show you again a portion of Exhibit 112, Page 3.

MR. REEVES: If we could, please, have that displayed.

(Document displayed)

MR. REEVES: If we could enlarge it, and highlight [989] the investment in Encysive that occurs on or about December 22nd.

Yes, excellent. Thank you.

(Document highlighted)

BY MR. REEVES:

Q On or about December 22, 2004, did you invest in call options relating to Encysive pharmaceuticals?

A Yes.

Q And, why did you invest in Encysive at this time?

A Encysive was coming up with a drug for poly-arterial hypertension. And, it is a one-drug company. All one-drug companies get acquired. And, that's the main reason why I'm buying calls in Encysive.

Q Okay. And, did you speak about Encysive with your brother, Maher Kara?

A Yes.

Q Did, did he – what information did he provide you about Encysive?

A That it will be acquired by Pfizer one day.

Q Was that confidential information, to the best your knowledge?

A Yes.

Q Was it material, non-public information?

A Yes.

Q Coming from Citigroup?

[990] **A** Yes.

Q Did you discuss your investing in Encysive with Mr. Salman?

A Yes.

Q And do you recall the substance of your discussion with him?

A Um, I did – that was one of the companies that I gave him.

Q Okay. What did you tell him, if anything, about why he might consider investing in Encysive?

A It was a one-drug company, that it would be acquired. And to load up on Encysive.

Q What does "load up" mean?

A Start buying calls.

Q Start buying calls. Okay. And, All right. Did you have to – and still in this period – walk him through the steps associated with options trades associated with Encysive?

A Yes.

Q Was that time-consuming?

A Yes.

Q So, how long would the series of trades associated with Encysive, how long would something like that take?

A We spent few hours. We spent few hours, initially, together.

Q All right. All right, good.

* * *

[997] **A** Yes.

Q In this time period, in or around February 2008, were you investing in PDLI?

A Yes.

Q And what type of investment were you making?

A Puts. Buying puts.

Q Do you want to look at the exhibit, or do you want to look at the screen?

A I'm looking at both.

Q Okay. All right, good. Why were you investing in puts?

A Because I was expecting the price, the stock price, to – to drop.

Q Why did you expect the stock price to drop?

A Because the company was making a significant acquisition. And, it was a structured-debt deal. And usually the structured-debt deals, the price of the stock goes down. At least, that's what I was hoping for.

Q And why is it advantageous to buy puts if you are expecting the stock price to go down?

A That's – that's how you hedge your – your exposure, is by buying puts.

Q As versus, a call is a bet that the stock is going to go up?

A Is going to rise.

Q But the put is a bet that the stock price is going to go [998] down.

A Correct.

Q Okay. And, in this time period, were you talking about the financing associated with this transaction with Maher?

A Yes.

Q Okay. Was that relevant to your information?

A Yes.

Q At that time, was that confidential information known to the investing public?

A I think so.

Q At that point, it was?

A Yeah.

Q Okay. And, and, do you recall in this time period, talking with Bassam Salman about this investment decision?

A Yes.

Q What do you recall discussing with him?

A To buy puts on PDLI.

Q Had he ever invested in puts before, to the best of your knowledge?

A No.

Q So, did you have to walk him through that?

A Yes.

Q Was that time-consuming?

A Yes.

Q Another learning curve, in a sense?

* * *

[1000] **A** Because the two companies took a significant hit. And, the – the share prices went down significantly. So, I was buying these two companies at a significant discount.

Q All right. And, did you discuss your trading with Bassam Salman in this time period?

A Yes.

Q And, what did you and he discuss with regard to Biogen in or around March, 2005?

A Buy.

Q Buy.

A Calls.

Q Calls. Okay. And, what type of calls, in particular? Did you recommend any particular types?

A Yes.

Q What did you recommend?

A Well, Biogen, it was primarily the January 21st, 2006, 40 and $50 calls.

Q Forty and $50 calls? Okay, good. Now, he's been working – withdrawn.

Bassam Salman has been working on his options trading, according to your testimony, for a few months now. Has he improved as an options trader?

A Very much so.

MS. SHIFMAN: Objection, spec- – speculative. Excuse me.

* * *

[1005] **Q** And why did you want to invest in Pain Therapeutics?

A Pain Therapeutics is a one-drug firm. Remoxy, which was replacing Oxycontin. Because you can crush Oxycontin and snort it, but you cannot crush Remoxy. And so, Remoxy was far superior, and efficacious, and safer.

So. The investment in Pain Therapeutics was a no-brainer.

Q All right. Did you discuss that Pain Therapeutics with your brother, Maher?

A Yes.

Q Did he agree with you it was a no-brainer?

A Yes.

Q What, in substance, do you remember him telling you about Pain Therapeutics?

A Buy.

Q All right. And, did you discuss your investment decision in Pain Therapeutics with Bassam Salman?

A Yes.

Q What do you recall discussing with him?

A I told him it was a one-drug firm, and all one-drug firms will be acquired.

Q All right. And, what, what type of securities did you settle on buying in this time period? What did you invest in?

A In Pain Therapeutics, you mean?

Q Yes.

A I was buying the April 16, 2005, $7.50.

* * *

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Monday
	) September 23, 2013
Defendant.	) 8:29 a.m.

TRANSCRIPT OF TRIAL PROCEEDINGS

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Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

[MICHAEL KARA – DIRECT/REEVES]

[1066] **Q** And what do you recall discussing with him during that time?

A Whether this one-drug company will be acquired one day.

Q And what, if anything, did he tell you about that?

A "Yes."

Q So, was that an important piece of information for your investing decision?

A Yes.

Q Okay. To your knowledge, was that confidential information in this time period?

A Yes.

Q Okay. Now, during this time, did you also have an opportunity to discuss your investing decision in APPX with Mr. Bassam Salman?

A Yes.

Q Do you recall the substance of that discussion?

A Um, not – not in April, but earlier on, I had discussed APPX with Mr. Salman.

Q Do you remember approximately how much earlier?

A The discussion of APPX must have happened in the beginning of '05.

Q Okay. And what was that discussion again, please?

A That it's a one-drug company, and all one-drug companies will be acquired at one time or another. Please maintain your call position on that company.

[1067] **Q** And in or around the time of this investment, do you recall one way or the other whether you discussed with Mr. Salman your decision to make another investment in APPX, even if you didn't go into the background reasons for why?

A Every – every time I made a position, I took a position, I called Bassam and I informed him that I was taking up a position in APPX. Or taking up a position in Novartis.

I was completely transparent with Bassam. So if I took up a position for the day, I would call him up and I would tell him what I bought. So that our trading records would mirror-image each other.

Q All right, good. Thank you very much. I would like to now look at Exhibit 113, please. Specifically Page 2. (Document displayed)

MR. REEVES: And specifically the –

(Document highlighted)

MR. REEVES: Okay. Thank you.

BY MR. REEVES:

Q And, look at your trading in a company known as Bone Care. Do you see that highlighted on the screen?

(Witness examines document)

A Forgive me, Page 2?

Q Page 2 at the top of the page. And also on your monitor, the relevant trade should be highlighted.

Do you see it, Mr. Kara?

* * *

[1072] right?

A Yes.

Q Do you remember making a decision to invest in Bone Care in or around May 2nd, 2005?

A Yes, sir.

Q And, just tell us generally about your decision to invest in Bone Care at this time. What do you recall happening?

A On or – on or about April 27th, I – I did receive a phone call from Maher, informing me of Bone Care. That Bone Care will – will occur within a very short period of time. That there will be a takeover of this company.

And then, the – we purchased in Fidelity's account, which is shared, you know, by myself and Emile.

Q Uh-huh.

A Bone Care does not have any options. It's purely a stock fade. So the ones that you see before you are just basically stocks in Bone Care.

Q Was this during the period of your convalescence from your surgery?

A Yes.

Q Do you remember being in pain during this period of time?

A Yes.

Q So how were you able to carry out these trades?

A By sitting in front of the computer. This activity doesn't take much. It takes maybe five minutes.

[1073] **Q** To trade in stock?

A To – yes.

Q As versus trading in options? Is that more time-consuming?

A Very much so.

Q All right. Okay. Was this – withdrawn.

You said that your brother, Maher, called you and spoke to you about Bone Care. Is that correct?

A Yes.

Q Was the information that he gave you confidential, non-public information?

A Yes.

Q Was it valuable to you?

A Yes.

Q How was the possibility that Bone Care would be taken over be valuable?

A Because – because it's non-public information. And, we – you know their share price is about to rise, so you buy the company low and you sell it high.

Q Do you have a recollection for – about why you carried out this trade in Mr. Jilwan's account?

A I don't think I had enough money in my own account.

Q All right. In this time period, do you recall discussing your decision to invest in Bone Care with Bassam Salman?

A Yes.

[1074] **Q** What do you recall in substance discussing with Mr. Salman about Bone Care in this time period?

A I – I called Bassam, and I believe I told him that "I have a good one for you. And it's going to happen in very few days." And I spelled Bone Care for him, "B-O-N C-A-R-E."

Q All right. Good. Thank you. I would like to move forward a few more weeks.

MR. REEVES: If we could go back to Exhibit 112 and display Exhibit 112, Page 18, please.

(Document displayed)

MR. REEVES: And if we could display the top half of the page, and highlight the trading activity on or around June 21, 2005.

(Document highlighted)

BY MR. REEVES:

Q Okay. Mr. Kara, on or around June 21st, 2005, did you make a decision to invest in Endo Pharmaceuticals?

A Yes.

Q And why did you decide to invest in Endo at that time?

A Endo was coming up with a pain patch. And, which will cause the – the gross revenues at Endo to rise. And so, I bought stock into Endo.

Q Did you discuss this investing decision with your brother, Maher?

A Yes.

[1075] **Q** And what do you recall him saying about Endo at this time?

A That it was a good buy.

Q And, did you discuss your decision to invest in Endo with Bassam Salman?

A Yes.

Q Do you recall the substance of that discussion with Mr. Salman?

A As I mentioned, that Endo was coming up with some new drugs, and that Endo would be a good buy, to buy some calls and/or stock into Endo.

Q And what type of securities did you acquire in Endo at or around this time?

A I bought stock.

Q All right. Thank you very much.

Let me direct your attention to the next month, to in or around early July, 2005. At or about that

time, did you attend a wedding of your brother Maher to Susie Salman?

A UH, yes.

Q From early July, 2005?

A Yes.

Q Do you remember the wedding?

A Yes.

Q Would you please describe the wedding weekend to the jury?

A The wedding occurred over a period of maybe three-four days. And, it was a very happy occasion. And, we – we

* * *

[1079] **A** Yes.

MR. REEVES: At this time, I offer Exhibit 139 into evidence.

MS. SHIFMAN: No objection, Your Honor.

THE COURT: All right, 139 is admitted.

(Trial Exhibit 139 received in evidence)

MR. REEVES: And I'm going to ask at this point that it please be displayed, and played for the jury.

THE COURT: Okay. Permitted.

(Video played, not reported)

BY MR. REEVES:

Q Mr. Kara, was that a happy occasion?

A Very much so.

Q Let's focus a little bit on the wedding weekend, and the time that you spent with Bassam Salman.

So over the course of the three days in Chicago, relating to the wedding events, how much of your time did you spend with Bassam Salman?

A Seventy-five percent of my time.

Q And what sorts of things did you do when you weren't attending the actual wedding, or the wedding ceremony?

A Took me around. He showed me Chicago. Basically, he was with me the whole time.

Q Did you enjoy that opportunity to spend that time with Mr. Salman?

[1080] **A** Very much so.

Q All right. In the course of that weekend, did you have an opportunity to visit Mr. Salman's place of business?

A Yes.

Q Do you recall that –

THE COURT: Excuse me. Can you pull the microphone a little –

(Request complied with by the Witness)

THE WITNESS: Forgive me. Forgive me have.

BY MR. REEVES:

Q Keep it close to your lips, if you would, please.

Do you recall visiting his place of business?

A Yes. Forgive me.

Q And, did you get a tour, in a sense?

A Yes.

Q Please describe what you remember happening.

A Bassam took me to his place of business. It's a large wholesaler for grocery items and what have you. And we toured the place.

And own our way out, I noticed he – he was showing me out. And I noticed a small office. I think he either probably motioned it, motioned it to me or I watched it myself, a small office towards the entrance of the building.

The office was heavily littered with papers. The papers were primarily business records and what have you. But,

* * *

[1082] door at that time.

Q Could you see into the office?

A Very much so.

Q And see the papers that were in it, for example?

A Very much so.

Q Were there other people around in the warehouse?

A Yes.

Q All right. So, is that the reason you asked to speak with Mr. Salman outside?

A Yes.

Q All right. Go on. What happened next, after you go outside?

A Bassam came. And I said, "Could we go somewhere?" And he said, "Sure." We got into the car. And he turned on the car, and then we started talking in the car.

Q What was said?

A I basically informed him that the reason why I wanted to talk to him was because of the situation that was inside the office. And the presence of these papers that I saw.

And, I think he detected the tone of voice. I was speaking a little bit in a louder tone, you know. And, he got concerned.

And I basically told him, point-blank, you know, "You need to be very careful with these pieces of paper. And what do you think is the source of all of this information?" And I [1083] answered it for him, and I told him, "Maher. Maher is the source of all of this information."

And he was – he was stunned. He was perplexed, looking at me. And he responded to me by saying, "Then we have to protect him."

Q What did that mean to you, "We have to protect him"?

A We have to be careful. We have to do whatever we have to do to be careful.

Q And, what about the conversation was perplexing? Did it relate to the documents that you were drawing attention to, for example?

A I think – I think he was just – the whole – the whole thing was just perplexing for him, that I noticed that there were a few papers, you know, in the – on the floor, on the credenza, on his desk, that dealt with stocks that we were trading in.

Q At that time, did you think that it was important to keep the stock trading information that you and he shared more confidential?

A Very much so.

Q To put it away, for example?

A Very much so.

Q Was that the thrust of what you are communicating to –

A Absolutely.

Q Okay. What, if anything, did he say he would do?

[1084] **A** He would shred all of the papers.

Q He would what?

A Shred them.

Q Okay. Were there any other ways to protect Maher?

A That wasn't discussed.

Q Okay. But, he would clean up the papers.

A Exactly.

Q All right. Okay. During the course of the wedding weekend, did you have an opportunity to discuss a company known as Celgene?

A (Nods head)

Q Do you recall that discussion?

A Yes.

Q Did you discuss it with Mr. Salman?

A Yes.

Q I would like to show you what has been marked as Government Exhibit 113 again, Page 3, please.

(Document displayed)

BY MR. REEVES:

Q Do you still have that up there?

A Yes.

MR. REEVES: All right, and if we could please highlight the portion of Exhibit 113, Page 3, that reflects trading on or about July 8th, 2005, in Celgene.

(Document highlighted)

[1085] **MR. REEVES:** That's great. Okay, good. Thank you very much.

BY MR. REEVES:

Q All right. Why were you interested in Celgene in or around early 2005, Mr. Kara?

A Celgene was a very promising company. It was – it manufactured a drug for leukemia. And, the drug has many applications. And, the company was so promising that it was going to be the next Genentech.

Q Did you discuss Celgene at all with Maher Kara?

A Not at that time. But later on, yes.

Q So was your interest in Celgene the product of your own research, in any sense?

A Yes.

Q As versus something that you would talk through at the time you were looking at it, with your brother Maher.

A Correct.

Q All right. In this time period, in around – on around July 8, 2005, did you discuss Celgene with Mr. Bassam Salman?

A Yes.

Q Do you recall the substance of that discussion?

A Yes.

Q And what do you recall telling Mr. Salman about Celgene?

A He had asked me for a good tip. And I told him that I'm buying Celgene. And, that it showed a lot of promise, and [1086] that it would go up – the share price would go up in the next week or two. And that he should take a position in Celgene right away.

Q Did he seem interested in what you told him?

A Absolutely.

Q How do you know that?

A He told me to cover a little bit, you know, for – for him at the party, and that he would go make a transaction and come back.

Q Was he gone from the party for a little while?

A Yes.

Q How long was he gone for, for example?

A A couple of hours.

Q A couple of hours?

A Yes.

Q Did you cover for Bassam Salman during the party?

A I don't know what that meant, but that – that's what was said.

Q Did you try to cover for him?

A I guess so.

Q Okay, good. Now, in your discussion with Bassam Salman about Celgene, at any point did you tell him that the source of your information was your own research, as versus coming from Maher?

A No.

* * *

[1090] **Q** All right. In or around this time period, did you discuss your trading and your investment decision relating to Genentech with Bassam Salman?

A Yes.

Q Do you recall the substance of that discussion?

A My same explanation. That Avastin was going to be a billion-dollar drug, and that the income from that drug will help the gross revenues of Genentech.

Q And based on that information, what, what type of securities did you buy?

A I purchased the January – forgive me. At Genentech, I purchased, yeah, the January 1, 2006 calls.

Q Calls at what strike price?

A 85.

Q Would you have discussed the particulars of your investing decision with Bassam Salman?

A Absolutely.

MR. REEVES: Let's go forward to Exhibit 112, Page 10, next page, please.

(Document displayed)

BY MR. REEVES:

Q And if I can direct your attention to the portion of the page in the middle, three trades up from the black dot in the middle, a convenient measuring here, on or around October 11, relating to Cephalon.

* * *

[1092] Cephalon. And Cephalon will most likely be acquired.

Q All right. And in or around this time period, did you also discuss your decision to invest in Cephalon with your brother-in-law, Bassam Salman?

A Yes.

Q And, do you recall the substance of that discussion?

A Yes.

Q What did you and Mr. Salman discuss regarding Cephalon in this time period?

A I told him that Cephalon is a one- or two-drug company, to go ahead and buy some calls in Cephalon.

Q All right. And did you discuss the specifics of your – of the securities that you recommended that he buy?

A They mirror-imaged whatever I was buying. I told him what I was buying.

Q You told him what you were buying, so that he could do the mirror-image trading?

A Correct.

Q Of your trading.

A Yes.

Q All right. Okay, good. Drop the microphone just a little bit, to your mouth.

(Request complied with by the Witness)

Q I'm done with that exhibit. We will put that away for the moment.

* * *

[1098] **A** No.

Q Okay. As you look back on this incident, where you are digging with your hands in the backyard, what do you think about it today?

A It – it was stupid.

Q Okay. All right. Why was it stupid, Mr. Kara?

A Because it – the wires never existed. And there was no camera.

Q Do you think the incident with the wires and the digging and the ladder was a product of the anxiety associated with your conflict with the neighbor?

A Not only that, but I had been very depressed and I was taking Zoloft. And I increased the dosage of Zoloft to three times the recommended dose. And so that makes you manic. And, I think that had affected me tremendously.

Q Did you work on that problem in the – in your medications with Dr. Woolery, thereafter?

A Immediately.

Q Were you able to get the mixture of your medicines corrected?

A Yes.

Q Now, in or around this time period, in or around February of 2006, shortly after the time of the events you have been describing, did you make a decision to move from your home in Vallejo?

[1099] **A** Yes.

Q And where did you move to, temporarily?

A My mom's home.

Q And in what city is that located?

A Also in Glen Cove, Vallejo.

Q Okay. Did that create a greater separation between you and this neighbor?

A Yes.

Q Did that help in any way with your symptoms?

A Immensely.

Q And thereafter in 2006 did you make a decision to move from Vallejo altogether?

A Yes.

Q And where did you move to?

A Walnut Creek.

Q And, once you made the decision to move away from the neighbor, in the manner you have described, did the problems that you had been experiencing in early 2006, did they get better or did they get worse?

A They got very much better.

Q How did they get better?

A There was absolutely no problems any more.

Q I would like to go back, if I could please, to Exhibit 112, Page 13, please.

(Document displayed)

* * *

[1101] **MR. REEVES:** Okay, good.

BY MR. REEVES:

Q Sorry about that, Mr. Kara. I wanted to talk to you about Andrx.

In or around February, on or about February 24, 2006, did you make a decision to invest in Andrx?

A Yes.

Q All right. Is that what's now reflected on Exhibit 112?

A Yes.

Q Okay. And, why did you decide to invest in Andrx in or around February 24, 2006?

A Andrx was a pain company. And, I had received some information from Maher that this company will be acquired in a matter of a week or so. So, we started loading up on Andrx calls.

Q Was the information that you obtained from Maher Kara relating to Andrx confidential information?

A Yes.

Q Was it non-public?

A Yes.

Q Was it inside information?

A Yes.

Q And, was it valuable to you?

A Yes.

Q Why was it valuable to you?

[1102] **A** Because we were going make some money.

Q How would you make money, given what Maher had told you?

A We would buy the calls low, and we would sell them high after the acquisition.

Q After the acquisition had occurred?

A Correct.

Q And, in that way you hoped to profit.

A Correct.

Q All right. Now, did you, in this time period, also discuss your decision to invest in Andrx with your brother-in-law, Bassam Salman?

A Yes.

Q Do you recall the substance of that discussion?

A Yes.

Q And, what, in substance, do you recall discussing with Mr. Salman?

A I told Bassam that, "I have a good company for you, that's a definite takeover." And, "Start loading up on calls."

Q Now, at the time that you told him it's a takeover, that it's a definite takeover, was there public knowledge?

A No.

Q And, what happened next? What, if anything, did Mr. Salman do, or say to you?

A He was buying calls.

Q And according to the trading records, what securities did

* * *

[1106] **Q** Okay. And why did you decide to invest in HCA in this time period?

A I saw HCA in the *Wall Street Journal*. And so, I thought it was – that there was going to be an acquisition of this particular company. It was ready for that.

Q All right. In this time period, in the summer of 2006, do you recall discussing HCA and other hospital-related companies with your brother, Maher?

A Yes.

Q What do you recall discussing in that time period with Maher Kara about that subject?

A I had the stocks that I had on that hit list divided up into different groups. You know, anti-cancer, cardiovascular, hospitals, et cetera. In that hospital group, there was LifePoint, WellPoint, HCA, USPI, that sort of thing. So I had all these discussions with Maher about the appropriateness of these companies. And HCA was one of them. Although HCA did not come from Maher.

Q Okay. But you talked about him in – withdrawn

You talked about HCA in the sense that you just described, talking about a collection of hospital stocks.

A Correct.

Q All right. And in this time period, in or around July 21, 2006, did you speak with Bassam Salman about your investing decision in HCA?

[1107] **A** Yes.

Q And do you recall the substance of that discussion?

A I mentioned HCA as a great target for takeover. And that I was going to invest in it. And I left it at that.

Q All right. And what securities did you decide to buy in HCA in or around this time period?

A I bought the August 19, '06, 47.50 calls.

Q Did you discuss the types of securities that you were going to invest in with Bassam Salman?

A I was very transparent with Bassam. Whatever I bought, I always told him.

Q All right. Let's move forward to a little bit later, next month, in or about August, in or around August 8, 2006. At or about that time, did you make a decision to invest in USPI?

A Yes.

MR. REEVES: I would like to display, please, Exhibit 112, Page 15, please. And if we could highlight the first trade in the record, please.

(Document highlighted)

BY MR. REEVES:

Q Now, does "USPI" stand for "United Surgical Partners International"?

A Correct.

Q Why did you decide to invest in USPI in or around August 8, 2006?

[1108] **A** Maher called and said that there's – there's a company that has these clinics that are surgical clinics. And Welsh Carson would probably be the acquirer, and to go ahead and take a close look at it. And, "You may want to take a position in it."

Q And what company had the surgical clinics that you are talking about?

A USPI.

Q So did Maher alert you that USPI had these surgical clinics?

A Yes.

Q And that it might be acquired by Welsh Carson?

A Correct.

Q Now, was that confidential information, Mr. Kara?

A Yes.

Q Was it non-public information?

A At the time.

Q Okay. It was unknown to the other investors in the market, to your knowledge?

A Yes.

Q All right. Did you consider it to be valuable information to you?

A Yes.

Q Why was it valuable to you?

A Because you can buy USPI at a reduced price and sell it [1109] later at a high price.

Q All right. Now, did you discuss your decision to invest in USPI with your brother-in-law, Bassam Salman?

A Yes, I did.

Q Do you recall the substance of your discussion with Mr. Salman about USPI?

A Yes.

Q What do you – did you and Mr. Salman discuss regarding USPI?

A I told him that, "I have this company which is a hospital – it's a hospital stock. There's an issue with it, though. We're not sure when the transaction will occur, but I will – I will check with Maher, and I will get back to you as soon as possible. So go ahead and take a position in it, but we'll get back to you as soon as we have more information from Maher."

Q And when you were discussing with Mr. Salman that you were not sure when the takeover or the acquisition would occur, what did you mean?

A We were not sure when the closure date would be. We knew – we knew that it will happen, but we were not sure when, at the time.

Q And so what did you tell Mr. Salman you would do in order to be more sure?

A We will check with Maher.

[PROCEEDINGS]

[1110] **Q** That you would check with Maher?

A Yeah.

Q And get back to Mr. Salman?

A Yes.

Q Okay.

MS. SHIFMAN: Your Honor, perhaps, if we are done with this area, perhaps this is a good time for the morning break?

MR. REEVES: We're not done.

THE COURT: Well, as soon as you finish the USPI one.

MR. REEVES: Sounds good, Your Honor.

BY MR. REEVES:

Q What securities did you decide to invest in USPI in this time period?

A It appears that it was mostly the November 18, 2006, $25 strike price.

Q All right. Good. And did you discuss the details of that investment with Bassam Salman in this time period?

A Yes.

Q All right.

MR. REEVES: Your Honor, I would like to finish with USPI, if I could, and then take a break. It might take me a few minutes.

What is the Court's preference?

THE COURT: How long will it take you?

* * *

[MICHAEL KARA – DIRECT/REEVES]

[1117] **THE COURT:** Sustained.

BY MR. REEVES:

Q Was this at or about the time that you called Mr. Salman about USPI?

(Witness examines document)

MS. SHIFMAN: Your Honor, I'm going to object. The witness is looking at some other document.

(Witness examines document) before that

THE COURT: All right. You can answer the question if you recall, and then if you need to refresh your memory we have to indicate that for the Record.

So, based on what you know, you can answer the question.

THE WITNESS: I can't remember.

BY MR. REEVES:

Q Do you remember talking with Bassam Salman in or around early August, 2006, about USPI?

A Yes.

Q At or about the time that you made your investment in USPI?

A Yes.

Q But you are not sure if this is necessarily that phone call. Is that your testimony?

A Correct.

Q All right. Good.

Now, in this time period – thank you, I'm done with that.

[1118] (Off-the-Record discussion between counsel)

BY MR. REEVES:

Q In or around this time period, Mr. Kara, did you discuss your decision to invest in USPI with other people besides Bassam Salman?

A Yes.

Q Did you speak with USPI about Mr. Joseph – with Mr. Joseph Azar?

MS. SHIFMAN: Objection, leading.

THE COURT: Overruled.

THE WITNESS: Yes.

BY MR. REEVES:

Q Okay. Let's talk about Mr. Azar in this time period. In or around the time that you decided to oh invest in USPI, do you recall the substance of your discussions with Mr. Azar about USPI?

A I think so.

Q Okay. Tell us what you remember.

A I – again, I mentioned to Mr. Azar the same thing that – that I had mentioned before. That there is a company that will most likely be acquired. The only issue would be we don't have the target date of the acquisition. And, it was left at that.

Q What, if anything, did he say?

A He – he thanked me. And, and it was left at that.

[1119] **Q** All right. And, in this time period, do you recall speaking with Nasser Mardini about USPI?

A Yes.

Q Okay. Do you recall the substance of your discussion with Mr. Mardini?

A Uh, not really.

Q Okay. Do you foreclose the possibility that you spoke with him about USPI?

A I did speak to him about USPI.

Q So, you are sure you spoke with him about USPI.

A Yes.

Q But you don't recall the details any further?

A No.

Q All right, fine.

Now, how did USPI unfold? Did – how long did you continue to invest in USPI?

A Significant number of months.

Q Through the fall of 2006?

A Yes.

Q Did that have an effect on your investment strategy?

A Big time.

Q Describe what type of an effect it had.

A We were buying short-term calls, only to have to liquidate them, to fall back. And, for the calls to expire. And, become worthless. And then only to find out that first it was [1120] going to be November, so we would buy in December calls. And then, finding

out that it's not going to be December, it's going to be something else. So, we lost quite a bit of money.

Q Because the – the corporate transaction, the takeover was taking longer than you expected?

A Yes.

Q Okay. So as you are waiting for the transaction to happen, do you speak with your brother, Maher, about that?

A Yes.

Q Do you recall the substance of those – any followup conversations you had with Maher about what was happening with USPI?

A Yes.

Q What, if anything, do you remember Maher telling you?

A To be patient, and once he figures it out he will let us know.

Q Did you discuss the – who it was that was working on the USPI transaction?

A It was a colleague of his.

Q Do you remember that person's name?

A I think Trygve, a gentleman by the last name of Trygve.

Q A colleague at Citigroup was still working on the deal?

A Yes.

Q And approximately how many times did you continue to speak with Maher about following up about what was happening with [1121] USPI?

A Maybe five or six times.

Q And is that through the course of the fall?

A Yes.

Q And, did the discussions that you had with Maher about the delays associated with a takeover of USPI trigger discussions then with Bassam Salman about his investing?

A Yeah.

Q Did you have to follow up with Bassam Salman?

A Of course.

Q What do you recall discussing with Bassam Salman about that?

A I was embarrassed, you know, because at first I thought that we had the – the target date. So I have to be very apologetic from him, you know, because I was concerned that, you know, he may lose his investment.

Q What, if anything, did he say?

A He was very accommodating, and he said not to worry too much. And that when it happens, it will happen.

Q Did you discuss adjusting your investing strategy under those circumstances?

A I did.

(Reporter interruption)

THE WITNESS: I did.

* * *

[1129] did you make a decision to invest in Biosite?

A Yes.

Q I would like to show you what has been received in evidence as Government Exhibit 112, Page 16, please. (Document displayed)

MR. REEVES: And if we could enlarge the top half of the document.

All right, good.

BY MR. REEVES:

Q So according to your trading records, you made an investment on or about March 22nd in 2007 in Biosite. Do you recall that investment?

A Yes. Yes, sir.

Q Why did you make your investment in Biosite?

A I – I called Maher. And, found out that this particular company was going to be acquired by Monday. And the call was on Thursday. So, within maybe a few days, that this particular company was going to be acquired.

Q And do you recall your conversation with your brother, Maher, about Biosite?

A Yes.

Q What do you recall about that conversation?

A This – this particular company makes kits for doctors. For measuring, you know, heart attacks and the aftermath of heart attacks and what have you. And, Maher said that there's [1130] a pending acquisition over the weekend. And, that was the primary, you know, thing that went on between me and Maher.

Q When you called your brother, Maher Kara, did you ask him for information?

A Yes.

Q Why were you asking him for information?

A I – I needed a – I needed a company.

Q Why did you need a company?

A For multiple reasons. The primary reason was there was hardly any money left in the account. Maybe there was 25- to $30,000 left, total, in everything that we had.

And, secondly, some of the people that I was giving the tips to had complained that they needed a tip. And so stupid me listened to one of them. And –

Q Who did you listen to?

A Joseph Azar.

Q Was Mr. Azar complaining in this period?

A Yes.

Q In what sense was he complaining?

A That he was making bad investment choices. And, he needed a tip.

Q So when you spoke to your – your brother, did you speak about your need for information?

A Yes.

Q Okay. And what did you tell your brother?

[1131] **A** I told him that we needed a company.

Q All right. Go on. In the conversation you had with your brother, did he offer to give you money in any sense?

A Yes.

Q Do you remember that happening?

A Yes.

Q Did you take him up on his offer for money?

A No.

Q Why not?

A I was embarrassed.

Q So, what? You wanted information, not money.

A Correct.

Q Okay. And through the course of the phone call, what do you learn about Biosite? What is your understanding about what might happen to Biosite?

A Biosite will be acquired, over – over the weekend.

Q And the phone call was on what day of the week?

A Thursday.

Q Now, when you learned that Biosite would be acquired over the weekend, was that confidential information?

A Yes.

Q Was it non-public information?

A Yes.

Q Was it valuable to you, Mr. Kara?

A Yes.

[1132] **Q** Why was it valuable?

A Because you are buying a company at a normal price and you have one day of trading, Friday. And then, the price – the acquisition would happen

over the weekend. And on Monday, the price will almost double. And then, but the calls will go up dramatically.

Q After you spoke with Maher Kara about Biosite in the manner you have described, did you tell anyone else about Biosite?

A Yes.

Q Who did you tell about Biosite?

A I first phoned Mr. Salman. And then I phoned –

Q Is that the first person you spoke with?

A Yes.

Q What do you remember speaking with Bassam Salman about Biosite?

A I told Bassam that, "I have a good company for you. And this acquisition will happen over the weekend, by Monday. By Monday morning. And you don't have much time."

Q Was there urgency associated with the trading?

A Yes.

Q What was the nature of that urgency?

A The transaction may happen over the weekend. And there's only one day of trading. Because when I called him, the market had closed for Thursday. So,

the phone call happened [1133] after 1:00 Eastern time, you know. So, the market had closed for Thursday.

The only trading time he had was Friday. So he had one day of trading.

THE COURT: Mr. Maher, could you move the microphone closer to your –

THE WITNESS: Forgive me.

So he only had one day of trading left. And so, that was the urgency. It's just one day of trading. That's it.

BY MR. REEVES:

Q Just the Friday, the remaining trading day before the weekend?

A Correct.

Q All right. I would like to show you what has been marked as Government Exhibit 374, please.

MR. REEVES: If I may approach?

THE COURT: Yeah.

BY MR. REEVES:

Q Do you recognize this exhibit?

A Yes.

Q It's another set of your telephone records?

A Yes.

Q For the same account that we looked at before?

A Yes.

Q Is this for the time period in – that includes March, [1134] 2007?

A Yes.

MR. REEVES: At this time I offer Exhibit 374 in evidence.

MS. SHIFMAN: No objection, Your Honor.

THE COURT: 374 is admitted.

(Trial Exhibit 374 received in evidence)

(Document displayed)

MR. REEVES: All right. If we could enlarge the middle portion of the document. Keep going down a little bit. Great. Thank you.

And if we could highlight the – one second, are you on Page 2 of Exhibit 374? We're on the wrong page.

(Document displayed)

MR. REEVES: There we go. Everything is highlighted. Thank you.

BY MR. REEVES:

Q All right. We are on the second page of Exhibit 374, Mr. Kara. Do you see the item numbers on

the left, it looks like there is an Item 54, is a call between you and a No. xxx-xxx-xxxx?

Do you recognize that?

A Yes.

Q Do you know whose phone number that is?

A It's Maher.

[1135] **Q** Maher's cell number. And then, below that, it looks like there is an effort to call, just below that, xxx-xxx-xxxx?

Do you recognize that?

A Yes. That's Joseph Azar.

Q All right. Do you know if you were able to reach him at that time or not?

A No.

Q You were not able to reach him?

A No.

Q And then, down below that, Item 58 is a call to a number, Area Code xxx-xxx-xxxx, in Chicago, Illinois. Do you see that?

A Yes.

Q Do you know whose phone number that is?

A Yes.

Q Whose number is that?

A That's Bassam's.

Q Is this the phone call that you had with Bassam Salman about Biosite?

A Yes.

Q All right. Thereafter, are you able to reach Mr. Azar?

A Yes.

Q Okay. All right. Thank you. I'm done with this.

What happens with your investment in Biosite?

A Um, it – it grows.

* * *

[1141] **Q** What do you remember happening in the car during this visit for Orthodox Easter?

A He – he was very kind and he offered me money.

Q Describe what was said. What's the substance of the conversation you and Mr. Salman have in the car?

A Um, Bassam, Bassam had mentioned that they had made a significant sum of money on the last few transactions. Starting with Bone Care, Andrx, and USPI and Biosite. Specifically, Biosite.

Q (Nods head)

A And that, he wanted to find the mechanism to basically pay me back. I – I told him from the get-go, that wasn't necessary. And, he insisted. So, he had a stack of money with him, and separated by rubber bands. And, so, he insisted, and he kept on pushing the money my way.

And so, I took basically a bundle of money from him, and I told him, "Thank you so much, it's a gift," after he insisted. And that was the end of that.

He offered to buy me a coat because it was freezing outside, and we were near a factory. And from there he took me to the airport, and we left.

Q So when he's offering the money the first time, approximately how much money was he offering you, Mr. Salman – excuse me, Mr. Kara?

A About 30- or $40,000.

* * *

[1151] **A** Mr. Salman came to see me. And, with his daughter. And, he – he basically had an urge to tell me this.

He mentioned that all of – all of the time that – for the last three years, ever since that we were discussing stocks and options and all of this stuff, he was not trading, himself. He was passing this information on to someone else. In Detroit. And – and he was doing it to protect us all. And, he was hoping that I would understand.

Q What was your reaction to that news?

A I was very angry.

Q Why were you angry?

A Because the information is not contained anymore. It's outside his control. And my control.

Q Okay. What about passing the information to someone else in Detroit meant that the information was not contained? What do you mean by that?

A We don't know who – who has the information. Who was it given to. How many people are now trading in that information, and how big is the problem?

Q And, what – did you and Mr. Salman discuss this, this concern you had?

A Yeah.

Q What was his response?

A He assured me that it was just one person.

Q Just one person in Detroit?

* * *

[MICHAEL KARA – CROSS/SHIFMAN]

[1159] And, if you would keep the microphone close to you, I would appreciate it.

THE WITNESS: Yes, sir.

THE COURT: Thank you.

CROSS EXAMINATION

BY MS. SHIFMAN:

Q Good afternoon, Mr. Kara.

A Good afternoon, ma'am.

Q I would like to start with talking about you and your brother, Maher. All right?

You were – you are, excuse me – a little more than ten years older than your brother?

A More like eleven.

Q Eleven years older.

THE COURT: Do you want to lower that mic?

MS. SHIFMAN: Sure.

THE COURT: So the court reporter can hear you. Thank you.

BY MS. SHIFMAN:

Q He was a kid, a child, as you were growing up.

A Yes.

Q You took care of him, correct?

A Yes.

Q You saw him doing well in school?

A Yes.

[1160] **Q** You knew he always got good grades.

A Yes.

Q You watched him go off the Berkeley School of Business?

A Yes.

Q Then off to the University of Chicago for his MBA?

A Correct.

Q And, please keep your voice up. You secretly helped pay for his schooling at the University of Chicago.

A Yes.

Q You never told him.

A No.

Q He got good, even fantastic jobs, once he graduated.

A Yes.

Q He always advanced in his career?

A Yes.

Q That made you proud?

A Yes.

Q And happy, correct?

A Yes.

Q And made everyone in the family happy.

A Yes.

Q As well as proud.

A Yes.

Q He never got into trouble, Maher. Correct?

A No.

[1161] **Q** Not in school, no trouble?

A No.

Q No trouble with the law?

A No.

Q He never cheated?

A No.

Q He always followed the rules?

A Yes.

Q He didn't do any drugs?

A No.

Q And, we saw the wedding video, just earlier on your direct testimony, where you spoke proudly of him.

A Yes.

Q That you went to him for your counsel. Correct?

A Yes.

Q And for advice.

A Yes.

Q That you trusted him.

A Yes.

Q You also testified on direct examination that you suffer from Bipolar I disorder.

A Yes.

Q And, that you were diagnosed with this in 1999.

A Yes.

Q Prior to your diagnosis in '99, you had been suffering

* * *

[1165] **BY MS. SHIFMAN:**

Q Please let me know when you are done reading that.

A Yes.

Q At the time you talked to Dr. Shields, you told him that you intended to fly off the Bay Bridge in that accident. Do you recall that, sir?

A No.

Q No memory.

A No memory.

MS. SHIFMAN: One moment.

THE COURT: Okay.

(Off-the-Record discussion between counsel)

BY MS. SHIFMAN:

Q Since your diagnosis in '99 and even before, you have exhibited various signs of mania. Right?

A Yes.

Q For instance, running out in your yard naked at various times. Do you recall that?

A Yes.

Q Do you recall telling that to Dr. Shields?

A Yes.

Q You have checked yourself into Kaiser as a result of problems with mania, and delusions.

MR. REEVES: I object as to time frame and foundation, Your Honor.

[1166] **THE COURT:** All right.

MS. SHIFMAN: I'll back up.

THE COURT: Please lay that.

MS. SHIFMAN: Sure.

BY MS. SHIFMAN:

Q In 1999, you had a series of serious episodes that happened in your life. Right? You were having delusions?

A In 1999?

Q Yes.

A I don't know about delusions, but I was having some difficulties.

Q Okay. You were contemplating suicide at this time, you were very depressed?

A I was very depressed.

Q You were are abusing cocaine at that time?

A I think no. I think I was finished with cocaine in 1999.

Q You were abusing alcohol?

A Yes.

Q And you were involuntarily entered, admitted, into Kaiser Hospital in '99?

A Yeah. Yes.

Q Because, you were viewed as a harm to yourself.

A Yes.

Q And you remained there for eight days or so, before they released you.

* * *

[1187] **Q** Okay.

A The date is wrong.

Q Let's move to another time when you took a different amount of a drug that had been prescribed for you.

If you will, sir –

A What's that? Excuse me.

Q I want to focus your time around the time when your father passed away in November of 2004.

A Okay.

Q All right? It followed – your father's death followed a very long, difficult battle with cancer. Right?

A Yes.

Q You were very close to your dad?

A Yes.

Q You loved him dearly?

A Yes.

Q And it was very hard to watch him suffer as he did, I'm sure. Correct?

A Yes.

Q Once he passed away, in the time frame after that, you doubled or tripled your dose of Zoloft. Isn't that correct?

A That's correct.

Q You were feeling very, very depressed?

A Yes.

Q And, when you changed your dosage of Zoloft, that had a [1188] lot of tremendous side effects for you. Did it not?

A Apparently.

Q It made you very manic, right?

A Yes.

Q You started digging in the yard with your bare hands?

A Yeah.

MR. REEVES: Objection as to time frame and foundation. Your Honor.

THE COURT: Well, the time frame was shortly after the November death of his father, I guess, to sort of –

MS. SHIFMAN: Correct.

BY MS. SHIFMAN:

Q This continued into 2005, did it not, the digging?

A The digging was for a two-hour period. Period.

Q One time for two hours?

A One time, for two hours.

Q That's it. Do you remember when you were here in July, before the Judge (Indicating), when you testified under oath?

A Yes.

Q And you said that you went out into the yard, and you were digging day after day, until your hands were bloody?

A Ma'am, I – I know what I did. I dug in the yard for the wire, and I dug for two hours. And that was it. Until my wife got Dr. Woolery on the phone. I did it on one occasion.

Q When your wife got Dr. Woolery on the phone after you had

* * *

[1253] advice of counsel, he asked me to take the Fifth Amendment, and I did assert my Fifth-Amendment rights.

Q If I may read from Exhibit 658, the question was (As read):

> "QUESTION: What was the basis for your decision to purchase securities in United Surgical Partners?
>
> "ANSWER: I think I saw an article in *Forbes* magazine about this. That "

MR. REEVES: I object. That's not the complete answer.

THE COURT: That's not the complete answer?

MR. REEVES: The next line.

MS. SHIFMAN: Your Honor –

BY MS. MOEEL:

Q That statement was a lie, was it not, sir?

A That was not –

THE COURT: Hold on. Let me deal here.

The objection is overruled. You may ask your question.

BY MS. SHIFMAN:

Q That statement was a lie.

A No. No.

Q You bought USPI based on an article you saw in *Forbes*?

A Ms. Shifman, I was dealing with maybe 50-60 companies. I did see a couple of those companies in *Forbes* magazine. And I

* * *

[1299] **A** Yeah.

Q Yeah. Well, in fact, when you told the prosecutors about this supposed incident in the car –

A Yeah.

Q -- the first time you went in there, on March 15th, 2011, you said that Sam went in the car, and removed his battery from the cell phone (Indicating), and put it up on the dashboard (Indicating).

A That happened.

Q That happened.

A Absolutely.

Q And you didn't testify to that?

A Nobody asked me.

Q So you left out some of the information that happened during the conversation, supposedly, when you testified earlier.

A Nobody asked me about the minutiae.

Q You said that during the wedding weekend in July of '05, that, you know, you talked to Sam about a company called Celgene. Right?

A Yes.

Q That was based on your own research, right?

A Yes.

Q That you didn't tell Sam whether it was based on your research or it came from Maher, you just told him Celgene

* * *

[1304] **A** Correct.

Q So it's fair to say that there was no one at the helm from the time your dad got sick until he passed away. Right?

A Very true.

Q At the end, after your dad passed away, in late '04 and in '05, you were consumed with grief. Understandably so. Right?

A Yes.

Q Very depressed, right?

A Yes.

Q Having a number of psychological problems, mental health issues. Right?

A Yes.

Q Your focus wasn't really on your work, as well.

A True.

Q And, your focus, your obsession was really on researching and trading on a number of different companies and options, right?

A Yes.

Q And so in 2007 when you reached out to Maher, you weren't really running a thriving business at that time.

A True.

Q True. So, you – when you spoke to him, you begged him for information. Right?

A Brothers don't beg each other.

Q Fair. I'll give you that. You worked really hard for him [1305] to give you that information. Right?

A I – I asked him twice.

Q You asked him twice. He hesitated, did he not?

A Yes.

Q He didn't really want to do it, it didn't seem. Right?

A Yes.

Q But you pushed some of his buttons?

A Yes.

Q Told him you really needed it.

A Yes.

Q And the second it came out of his mouth, he instantly called you back and said "Don't trade on it." Right?

A Yes.

Q He begged you not to trade on it.

A Yes.

Q That was a time when brothers beg.

A Yes.

Q He didn't want you to do anything with that information.

A No.

Q And he asked you, "Don't do it." Right?

A Yes.

Q And you lied to him, and said, "Don't worry about it." Right?

A Yes.

Q And you traded on that, even though he didn't want you to.

[1306] **A** Yes.

MS. SHIFMAN: If I can have just a second, Your Honor.

THE COURT: Sure.

BY MS. SHIFMAN:

Q You traded with your best friend, Emile Jilwan, in addition to doing your own trading, right?

A Correct.

Q And, in essence, you and Emile were, I guess you would call it trading partners. Right?

A Yes.

Q And, you did it partially to help him out, right? Because he was your friend?

A No. We were actual trading partners.

Q Sure. But the reason that you gave him this information was to help him out because he was your friend.

A No, no. We were trading partners.

Q Let me try to reword that.

You could have traded on all this information on your own. Correct?

A Yes.

Q You didn't really need to get into a trading partnership with Emile Jilwan in order to trade.

A Yes.

Q Right?

* * *

Volume 6
Pages 1335-1530

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Tuesday
	) September 24, 2013
Defendant.	) 8:32 a.m.

TRANSCRIPT OF TRIAL PROCEEDINGS

APPEARANCES:

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Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

the government's going to make?

A No.

Q So you don't know, now.

A No.

Q All right.

(Off-the-Record discussion between counsel)

MR. REEVES: Thank you, Your Honor.

THE COURT: Uh-huh.

BY MR. REEVES:

Q Now, I would like to back way up. I don't know how we got to this point without asking this question, but I'm going to ask it now.

Could you tell us, Mr. Kara, how you first became interested in your stock investing? How did you first get interested in the stock market?

A Dad gave me – Dad was dealing in stocks. And when Dad's condition became bad, he had a Charles Schwab account that contained about 10, 15 stocks in it. He handed it over to me. And he said, "This is yours." And, so, in it there were few biotechnology pharmaceutical stocks, and the rest were just basically Fortune 100 stocks. And then he said "I need to teach you a little bit about options, too."

And so, when we were doing the chemo sessions, we would sit for hours, and I would take a notebook pad and I would sit down and I would work out option tables, me and him. And [1381] that's how I learned it, from him.

Q And in what year is that beginning to happen?

A In the beginning of 2004.

Q Early 2004?

A In September.

Q Is that a – an important memory that you share of spending time with your father during his illness?

A Yes.

Q All right. And were you trying to honor and respect your father by learning from him in that context?

A Yes.

Q All right. Prior to that time, prior to 2004, did you have very much experience with the stock market?

A I've never traded.

Q Okay. So, you were asked a series of questions about how you were trading stocks in 1986. Do you remember that?

A I've never touched a stock in my life.

Q Okay. Now, I'm talking about questions that you got yesterday –

A Yeah.

Q – from – from counsel for the Defendant, about how you may have been trading stocks in 1986. Do you remember those questions?

A I was in graduate school in 1986.

Q Okay. But, do you remember yesterday, being asked about

* * *

[1391] **Q** You were asked about your conversations with your friend, Emile Jilwan. Do you recall that part of your cross-examination?

A Yeah.

Q And, in your conversations with your uncle, Zahi Haddad, do you recall that part of the cross examination?

A Yes.

Q Did you in fact disclose Maher as the source of your inside information to some people, but not to other people?

A Yes.

Q Okay. And, among the people that you disclosed the inside information to, did anyone ever insist on knowing the source of the information for any reason?

A Yes.

Q Okay. And is there any type of correlation between the people who insisted on knowing the source of the information, and the people to whom you did disclose the source of the information?

A Yes.

Q Would you please explain that.

A Usually, the people that insisted on knowing are the people that had a significant sum of money to invest. Bassam was not a small trader, by no means. He was a large trader. So as such, he wanted to know the source of the information to make sure that –

[1392] **MS. SHIFMAN:** Objection, Your Honor. Speculation.

THE COURT: Over –

MR. REEVES: I don't think so, Your Honor.

THE COURT: Overruled. Overruled. Go on.

THE WITNESS: So before he made those trades, he wanted to make sure and ensure the source of the information was appropriate, and that it wasn't coming from me, you know?

BY MR. REEVES:

Q And why would Bassam Salman, in his discussions with you, have wanted to know about the source of the information before he made a large investment?

MS. SHIFMAN: Calls for speculation, objection.

THE COURT: Overruled. He can testify as to his understanding.

THE WITNESS: He wanted to know how solid that information was because, you know, we were dealing with hundreds of thousands of dollars at stake.

BY MR. REEVES:

Q Were there other people besides Bassam Salman, who in any way wanted or insisted on knowing the source of the information?

A Same as Azar. Azar was purely a stock, stock investor. He transacted massive amounts of money in buying stock only. Not options. So, he would buy the actual stock, and so, the minimum investment from Azar was 200, $250,000 at a time, so

[1453] And, when I got involved, it was a matter of, you know, of drilling down, looking at the trading records of those parties, looking at their phone records, and trying to establish if there was a flow of information from Maher Kara ultimately to the – the party making the trade.

Q Why would a flow of information from an insider like Maher Kara at Citigroup to investors investing in the stock market be relevant to an insider trading investigation?

A Why would it be relevant?

Q (Nods head) Not all of us get to be FBI agents, so you're going to have to explain that, please.

A Um, not sure I understand your question, Mr. Reeves.

Q So, why – why is the flow of information, as you put it – what do you mean by that? Why does the flow of information from insiders at Citigroup to outside investors in the market, why is that relevant and something that you need to investigate in the course of your insider trading investigation?

A Well, it's all, you know, it's all about communication, really. And in this particular case, you got people living in different geographic locations around the country, is he focusing on that information,

specifically the phone records, was very relevant to my investigation.

Q All right. So, in this early period, through 2007 to in or around early 2008, was there a period of time when the FBI [1454] did not know about any possible involvement of Bassam Salman?

A Yes. That's right.

Q All right. And is that – whatever connection that he may have had to this, the trading in this matter, was that something that you were looking for connections for?

A Yeah, it was a big mystery to us initially, in that both Mr. Farnham and I were reviewing Michael Kara's trading records and reviewing Karim Bayyouk's trading records and we were seeing a lot of parallel trading activity, which suggested they were communicating. But from all the evidence we'd gathered at that point, there didn't appear to be direct communication between those two individuals, or any sort of family relationship.

Q So, did you pursue this matter further?

A We did.

Q What did you learn?

A I remember getting a call from Lloyd Farnham, basically saying, "Hey, Jeff, I've been reviewing the trade" –

MS. SHIFMAN: Objection, hearsay.

THE COURT: Sustained.

BY MR. REEVES:

Q All right. Did there come a point in time when you were alerted to the a possible connection by the SEC?

A Yes.

Q Thereafter, did you look at certain relevant telephone [1455] records?

A I do.

Q Do you remember that moment?

A I do remember that moment.

Q Please tell us what you remember figuring out about a possible connection between the Karas and Karim Bayyouk, involving Bassam Salman.

A I was alerted to a common phone number that appeared both on Michael Kara's phone records and on Karim Bayyouk's phone records. And from there, further investigation determined that that number belonged to Bassam Salman.

Q Up – and approximately when did that happen?

A It was early 2008.

Q Up to that moment, had the role of Bassam Salman been unknown to the FBI?

A Yes.

Q Did it take an active investigation in the way you have described to determine that Bassam Salman may have a role in this insider trading scheme?

A It did.

Q All right. Was that an important development in your investigation?

A It was a very significant development.

Q Why was that?

A Because it explained to us why Karim Bayyouk's trading [1456] appeared to mirror Michael Kara's.

Q All right. Good.

A And it gave us a complete picture of what we believed was the information flow from Maher Kara at Citigroup ultimately to Karim Bayyouk in Detroit.

Q Are you familiar with a person named Nasser Mardini?

A Yes, I am.

Q Did you know Mr. Mardini before he came and testified in this trial?

A I did.

Q Okay. Did you have an opportunity to meet with Mr. Mardini in the course of your investigation?

A Yes.

Q Okay. Do you know whether at some point, Mr. Mardini made a decision to cooperate with the FBI's investigation?

A He did make a decision at some point.

Q Was that decision by Mr. Mardini to come forward and cooperate an important development in the course of your investigation?

A Yes, it was.

Q In what way was it an important development?

A Up until the point that he decided to cooperate, all of the evidence that – that we had collected was – was substantially the business-record evidence.

All we had were documents from which we were able to draw

* * *

[1477] (Document displayed)

MR. REEVES: And if we could enlarge the top portion, yes, that graph portion of the document. We'll enlarge that. (Document enlarged)

MR. REEVES: And if we could highlight the columns underneath stocks and options, please, or just the column with stocks and then the column with options.

(Document highlighted)

MR. REEVES: Excellent. Thank you very much.

BY MR. REEVES:

Q All right. In this portion of the application to trade options in Mr. Salman's account, what type of disclosures are being made, Special Agent Chisholm?

A Disclosures relating to his investment experience.

Q And, what, what are Mr. Salman's answers about his investment experience relating to stocks as they appear here in the September 13, 2004 application?

A It's listed that he had been trading for four years. And that he makes 120 trades per year. That the size of those trades are about $7,000. And that he has good knowledge of trading in stocks.

Q All right. And, by comparison, does he make disclosures about his experience in trading in options?

A Yes.

Q Are those reflected in the second column to the right?

[1478] **A** Right.

Q And, what disclosures does Mr. Salman make about his experience through September, 2004, in the -- in trading in options?

A That he has not traded in options, but that he has good knowledge.

Q All right, good. If we could now go back to the – the other part of this page, below this.

(Document displayed)

MR. REEVES: And if you could enlarge the portion, the paragraph underneath "Risks of Option Trading." (Document enlarged)

MR. REEVES: Excellent. Thank you. All right.

BY MR. REEVES:

Q Is this – withdrawn.

Is this form signed by Mr. Salman?

A I believe it is.

Q All right. Then, could you please read this portion of the option application from Mr. Salman to Schwab?

A (As read)

> "The purchase or riding of option contracts involves a high degree of risk and is not suitable for all investors. By applying to add the opt on trading feature to your account, you represent that you: Understand the risks inherent in option trading; are

* * *

[1485] **Q** Okay. Whose – who has a brokerage account at Comerica?

A Karim Bayyouk.

Q And was the brokerage account at Comerica held in the name of Karim Bayyouk relevant to your investigation?

A Yes, it was.

Q Was it an important place for you to observe certain trading in this case?

A Yes.

Q Can you describe how and in what way?

A Yeah. A lot of the – a lot of the trades that we were investigating initially Biosite, USPI and Andrx, were being made not only in the accounts of Michael Kara and his – some of his family and friends here in the Bay area, but also in accounts held by Karim Bayyouk at Comerica. So, this was a heavy focus of my investigation.

Q All right. Now, we're going to get into the brokerage account in a little bit. But this (Indicating) is technically a separate bank account within Comerica Bank, in parallel to the brokerage account? Is that correct?

A That's right. This is for Comerica Bank. The brokerage account is with Comerica Securities, which is an affiliate of Comerica Bank. So it's technically two different legal entities, but they are related.

Q Related, in that they are all part of the Comerica family?

A That's right.

* * *

[1499] **Q** Coming into the Comerica Bank account, and then being transferred into the Comerica brokerage account?

A Yes.

Q All right. Well, let's take a look at one of those, please.

MR. REEVES: If we could pull up Exhibit 174 at Page 247, please.

(Document displayed)

MR. REEVES: And if we could just enlarge as much of the document as we could, front and back, that would be great. (Document enlarged)

MR. REEVES: That's great.

BY MR. REEVES:

Q So what is this, Special Agent Chisholm?

A This is a – one of the cashier's checks. It's a cashier's check that was issued by Charter One Bank. It's hard to read, but the remitter shown on the check is Karim Bayyouk. And, it's in the amount of $75,000.

And that check is being deposited into the Comerica checking account of Karim Bayyouk, on or about July 12, 2005.

Q And it's in the amount of 75,000?

A Correct.

Q And it's being countersigned on the back by Karim Bayyouk?

A Yes.

Q If you look at this check, just on the face of the check, [1500] are you able to identify any association between this check and the Defendant, Bassam Salman?

A No.

Q Over time, as a result of your investigation, did you develop evidence that indicated to you that there was an association between Bassam Salman and this check (Indicating)?

A Yes.

Q Okay. Will you describe generally the nature of that investigation, and how you were able to come to associate this cashier's check with the Defendant?

A In just following the money, from this point, I kind of worked backwards. I went to Charter One Bank where Karim Bayyouk, I learned, had additional accounts.

And what I observed was a wire in the amount of $75,000 coming into Karim Bayyouk's account from Bassam Salman, exactly one day before this cashier's check was issued.

Q Now, if you looked just at this check, you would not have known that. Is that correct?

A Correct.

Q All right. And, in this way, did the use of a cashier's check in the manner that it was used in this case, did that create any kind of additional effort on your part, in order to figure out where the money came from?

A Well, it requires an extra step. If it was a – you know, if it was a personal check from Karim Bayyouk from his Charter

* * *

[1505] **Q** Okay. All right. Good. Now, if we could go down and highlight the portion in the – the center column, associated with the Defendant Bassam Salman, in the amount of – parentheses, 300,000, close parentheses.

MR. REEVES: Maybe we could enlarge that, too, please. Just that.

(Document enlarged)

MR. REEVES: Okay.

BY MR. REEVES:

Q Is there a withdrawal, in a sense, on or around August 22, 2006, that you traced to the Defendant, Bassam Salman?

A Yes.

Q What did you determine about that withdrawal in the amount of approximately $300,000?

A I was able to trace it to the purchase of a house.

Q I would like to show – withdrawn.

So that, is that, the money is coming from the Karim Bayyouk brokerage account? And being used to obtain a home for whom?

A For Bassam Salman.

Q Okay. And parentheses around the number, what does that mean, as you use it in your chart?

A It's a negative number. It's money coming out of the account, in other words. So, a withdrawal of $305,000 that flows out of the brokerage account into the Comerica checking [1506] account.

Q I would like to show you what has been marked as Government Exhibit 174 at Page 63, please.

(Document displayed)

Q Do you recognize this document?

A Yes, I do.

Q What is this?

A This is the monthly account statement for the Comerica checking account held in Karim Bayyouk's name for the period of August 11, 2006, through September 13, 2006.

Q And, does it – is it relevant to the purchase by the Defendant of a new home?

A Yes, it is.

Q How is it relevant?

A If, if we perhaps go to the next page, there's the transaction information that I relied upon in order to trace that to the house purchase.

MR. REEVES: Let's go to the next page. Page 64 in the exhibit, please.

(Document displayed)

BY MR. REEVES:

Q And are the relevant portions to the acquisition by the Defendant of a new home highlighted here in this document?

A Yes, they are.

Q All right. And, just walk us through what is highlighted, [1507] please.

A Yeah. The top portion of the document represents deposits coming into the checking account. So,

on August 22, there is a deposit of 305,000 which, again, is coming straight from the trading account, the brokerage account at Comerica.

And, moving further down the page, on the same date there's a check that's issued. If you look at the check number, 1067, you see a check in the amount of $300,000 that's occurring on the same date.

Q Thank you very much. Let's go to Exhibit 174, Page 299, please.

(Document displayed)

MR. REEVES: If we could enlarge that?

BY MR. REEVES:

Q Do you recognize this check?

A Yes.

Q What is it?

A It's a copy of Check No. 1067, which is – it's a $300,000 check, from Karim Bayyouk to Bassam Salman.

Q Okay. That's the check you just talked about in the bank statement.

A Yes.

Q All right. Let's take a look at the next document – withdrawn.

Exhibit 178, this time, Page 85. Please.

[1508] **MR. REEVES:** If we could enlarge that and highlight the transaction in the middle of the three transactions. (Document enlarged)

MR. REEVES: In the bottom, the one for $300,000 deposit.

(Document highlighted)

BY MR. REEVES:

Q Special Agent Chisholm, what is Exhibit 178 at Page 85?

A This is a copy of a monthly account statement for an account held by Bassam Salman and Roula Salman, for the period August, 2006. And it reflects the $300,000 being deposited into this particular bank account.

Q All right. And then, let's go to Exhibit 184, please. Page 1.

(Document displayed)

Q And, do you recognize this document?

A I do.

Q What is this?

A The bottom portion – actually, the entire document was produced to the government by a title company that had a role in the real estate transaction associated with Mr. Salman's purchase of the house.

The bottom portion reflects the down payment for that purchase of $300,000, which comes from the same bank account that we just looked at.

[1509] **Q** Okay. That you traced back to the Comerica brokerage account belonging to Mr. Bayyouk.

A Correct.

Q That's the down payment for Mr. Salman's new home?

A Yes.

Q All right. Let's take a look at Page – Exhibit 184, Page 2, please.

(Document displayed)

MR. REEVES: And if we could enlarge the top part? (Document enlarged)

BY MR. REEVES:

Q And so, where is the location of the property that Mr. Salman buys with the $300,000 down payment?

A It's [Address redacted], Orland Park, Illinois.

Q And what is the approximate value of the home that he bought with the down payment of $300,000?

A The purchase price was 1.3 million.

Q 1.3 million?

A Yes.

Q Is that in suburban Chicago, to the best of your knowledge?

A Yes.

Q Thank you. I'm done with that.

I would like to go back to Exhibit 192 one last time, please.

* * *

[1520] **Q** And so, that is the meaning of no notation, as it appears in this column associated with Bassam Salman.

A Yes.

Q All right. And then, let's go to the last column on the far right. That's the column entitled "Kara Date of First Trade."

Do you see that?

A I do.

Q What is meant by that?

A Based on my review of Michael Kara's trading records for his accounts at Schwab, as well as the account records of Emile Jilwan, I went through and identified the instances in which he was investing in the same companies that Karim Bayyouk was investing in. And –

Q The –

A And the date upon which he was making that investment.

Q Okay. So, were you testing your investigative theory that if information was flowing from Maher Kara to Michael Kara, to others and eventually Karim Bayyouk, it would be reflected in the sequencing of the trades, in the first trades?

A That was part of it.

Q And what did you find?

A I found that in many instances, Michael Kara was placing a trade in a particular biostock – biotech company, and in or about that same period, but usually after, I observed trading [1521] in the same securities in the Karim Bayyouk accounts.

Q So, which would happen first? Mr. Kara, followed by Mr. Bayyouk?

A Yes.

Q Okay. And did that correlate to your premise that you were testing?

A Yes.

Q And the flow of information that you have described?

A Correct.

Q All right.

MR. REEVES: Let's – we are going to end at 2:00, is that correct, Your Honor?

THE COURT: Yes.

MR. REEVES: Just a couple last questions. I see I've got 53 seconds. Okay, good.

If we could come all the way out, and highlight in yellow the Salman column, please.

(Document highlighted)

MR. REEVES: Thank you very much.

BY MR. REEVES:

Q So, Special Agent Chisholm, what did you observe about whether Bassam Salman was trading in the same stocks as Karim Bayyouk in his own name in his own brokerage account, as a result of your efforts to put together Exhibit 87?

A Well, I observed Karim Bayyouk and Bassam Salman were [1522] trading in many of the same stocks. However, those were not the stocks that Michael Kara was trading in, with one exception.

Q There's one exception, Genentech. That's Line 14, correct?

A That's right.

Q But is there a mirror image in any sense between any of these investors?

A Yeah. I think it's – there's definitely parallel trading activity going on between Karim Bayyouk's accounts and Michael Kara's accounts.

Q Okay. And, for Michael Kara's trades, do you see any trades other than Genentech, for a Michael Kara stock, in Bassam Salman's own account?

A No.

Q Nothing there.

A No.

Q Okay.

MR. REEVES: Okay. Your Honor, at this time, that might be a good place for us to stop, please.

THE COURT: All right. We will adjourn for today and resume tomorrow morning at 8:30.

Again, a reminder that you are not to talk about this case with anyone, form any opinions or conduct any independent research. And keep an open mind until the case is submitted

* * *

Volume 7
Pages 1531-1726

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Wednesday
	) September 25, 2013
Defendant.	) 8:28 a.m.

TRANSCRIPT OF PROCEEDINGS

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Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

accomplish?

A It was really created to enable me to compare and contrast the trading activity that I observed in the Karim Bayyouk Comerica brokerage account with other trading activity that I observed in a brokerage account that Mr. Salman had at Charles Schwab, as well as Michael Kara's brokerage accounts.

Q All right.

MR. REEVES: If we could please highlight the columns for Mr. Bayyouk and Mr. Kara, and de-highlight Mr. Salman's column, please.

(Document highlighted)

BY MR. REEVES:

Q Now, do you recall in the course of this trial testimony, about mirror-image trading? Do you recall that?

A I do.

Q All right. As you analyzed the trading for Karim Bayyouk and Michael Kara, do you see any evidence that there may be mirror-images in the trading, as you analyzed it?

A Yes, I think that's a fair characterizatio. I see trading in the same companies, at or about the same time, in both of those accounts.

Q And that's in the account belonging to Karim Bayyouk, correct?

A Correct.

Q And, and in the account belonging to Michael Kara.

[1544] **A** Correct.

Q And do you observe a further sort of sequencing of trades happening at or around the same time, where one person is trading in advance of another?

A Yeah. Generally speaking, the trading that I observed occurs first in Michael Kara's brokerage account, and then shortly after, I see a similar trade in the Comerica brokerage account.

Q All right. And for approximately how many different securities do you see this type of data?

A About 20 different companies.

Q And are they the ones – so, as we analyze Exhibit 87, how do we come to that approximately 20

figure? Tell us how we would do that using this exhibit, please.

A Just looking at the two highlighted columns, wherever you see a date populated in one of those cells, that reflects essentially a common investment. And I think if you add up each row where there is a common investment, I think it totals about 20 different stocks of the 36 reflected on the summary.

Q Thirty-four?

A I'm sorry, 34.

Q Okay. And again, the 34 reflects a complete listing of Mr. Bayyouk's trading in this time period?

A Yes. It's every single company he trades in, during this approximate three-year period.

[1545] **Q** And, approximately 20 of those, according to your analysis, mirror-image, in a sense, as you have described it, the trading of Michael Kara.

A Yes.

Q All right. Okay, good.

Hold on one second.

(Off-the-Record discussion between counsel)

BY MR. REEVES:

Q A couple more questions on Exhibit 87. Let me draw your attention to No. 8, Bone Care.

MR. REEVES: Perhaps we could highlight that, that row, this time.

(Document highlighted)

MR. REEVES: Okay, good.

BY MR. REEVES:

Q What was the sequencing of trading that you saw in Bone Care International?

A Stock in Bone Care International is being acquired on the same day, in the respective brokerage accounts of Karim Bayyouk and Michael Kara.

Q And, in the account for Mr. Salman, did he acquire any stock in Bone Care at or around that time?

A He did not.

Q If we could go now to Andrx, be No. 23, please.

MR. REEVES: Highlight that.

* * *

[1547] **A** No, he doesn't.

Q And last, No. 33, Biosite.

MR. REEVES: If we could highlight that?

(Document highlighted)

MR. REEVES: Great.

BY MR. REEVES:

Q What, what trading did you observe in the records relating to Biosite in or around late March, 2007?

A Michael Kara is buying Biosite call options on March 22, 2007. The following day, Karim Bayyouk is also buying Biosite call options in his account.

Q And does Bassam Salman, in his own account, trade in Biosite at that time?

A He does not.

MR. REEVES: Thank you. I'm done with 87.

BY MR. REEVES:

Q I would like to show you what has been marked as Government Exhibit 500 for identification.

MR. REEVES: If I may approach, please?

THE COURT: Yes.

(Witness examines document)

BY MR. REEVES:

Q Do you recognize Exhibit 500?

A Yes, I do.

Q What is Exhibit 500?

* * *

[1567] **Q** All right, good. So Mr. Kara gets into Andrx on or about February 24, 2006. What happens next?

A Mr. Bayyouk is investing in Andrx on the same day.

Q And, what are they investing in?

A Calls. Call options and stock.

Q All right. And then, under the public announcement column, what happens in or around March 13, 2006?

A There's a public announcement that Wock- – that Andrx is being acquired.

Q And, when does Mr. Bayyouk sell?

A He begins selling in the April time frame. But he continues to hold onto some of his investment in Andrx, and finally sells out his position in January, on January 19, 2007

Q All right. So, doesn't sell all of it immediately, is that what you observed?

A Right. I believe there were call options that were ultimately exercised in which he acquired stock, which ultimately sold in January, 2007

Q All right. And, how much did Mr. Bayyouk profit from his trading in Andrx?

A The net profit was approximately $226,000.

Q All right. Let's go through Biosite, if we could. (Document highlighted)

Q Why don't you take us through your analysis of these

* * *

[1594] to the best of your understanding, does that correlate to the second count of the indictment?

A Yes.

Q All right. Would you please take us through the evidence supporting that charge as reflected in this record, please.

A Yes. Using the SEC settlement rule, on or about November 7, 2006, United Surgical Partners International call options are being purchased. In this particular instance, 58 contracts are being bought.

Q All right. Let's go to Page 171 – excuse me, Exhibit 171 at Page 349, please.

(Document displayed)

MR. REEVES: And if we could enlarge the top three trades.

(Document enlarged)

MR. REEVES: And, highlight the last one, please.

No, I'm sorry, we need to step back out. Highlight all four of those top four trades, please. Enlarge, yeah.

(Document enlarged)

MR. REEVES: And now, highlight the one for 6,200 as the quantity, please.

(Document highlighted)

MR. REEVES: Thank you very much.

BY MR. REEVES:

Q All right. I'm directing your attention to Exhibit 171, [1595] at Page 349. Are you familiar with this?

A Yes, I am.

Q What is this record?

A This is a portion of the monthly statement for the Comerica brokerage account belonging to Karim Bayyouk.

Q And does the highlighted trade correlate to Count 3 in the indictment, to the best of your knowledge?

MS. SHIFMAN: Objection to the form of the question, Your Honor. It's for the jury to decide whether it correlates to something that's charged.

THE COURT: Why don't you rephrase the question.

BY MR. REEVES:

Q Is this relevant to the securities fraud charges in the indictment, as you understand them?

A Yes.

Q All right. Could you please walk us through your understanding of this particular trade, as reflected in this portion of Exhibit 171?

A Yes. For this particular trade, stock is being purchased in the brokerage account, which would require the T+3 settlement rule to be applied.

So backing up from the settlement date of December 20, 2006, the trade date would be on or about the 15th of December, if I recall correctly, in that there's a weekend that occurs within this time frame.

[1596] **Q** You, too, remember days of the week.

A In certain instances, yes.

Q All right. And so the trade is happening, applying the three-day rule, on or about December 15, 2006, is that correct?

A Right.

Q And what is being acquired in USPI?

A This is 6,200 shares of USPI stock.

Q All right. Let me show you what has been received in evidence as Government's Exhibit 171, at Page 381. (Document displayed)

MR. REEVES: And if we could, please, in the middle section, right, right there, just that – those middle four trades, if you could enlarge those.

(Document enlarged)

MR. REEVES: And highlight the first one, please. (Document highlighted)

MR. REEVES: Thank you very much.

BY MR. REEVES:

Q To the best of your knowledge, is this one of the other charges in the indictment?

A Yes.

Q Okay. And, would you please explain the trading that occurs in Mr. Bayyouk's account pursuant to this particular entry in his records?

* * *

[1605] **THE COURT:** Yes.

BY MR. REEVES:

Q Do you have Exhibit 88 before you?

A Yes.

Q Is this the transcripts (sic) of statements made by Mr. Salman to the United States Securities and Exchange Commission, on or about October 9, 2008?

A Yes.

Q All right.

MR. REEVES: At this time, Your Honor, I propose that we read this into the Record.

And it's my proposal that I read the questions and anything extraneous occurring in the transcript, and that Special Agent Chisholm read the statements made by Bassam Salman.

MS. SHIFMAN: Your Honor, I object. First of all, to Exhibit 88, the Court's already ruled on that.

THE COURT: It's been admitted, right?

MR. REEVES: Yes.

MS. SHIFMAN: It's been admitted. Sorry.

THE COURT: Okay.

MS. SHIFMAN: It's been admitted. Secondly, I object to the proposed form. I don't believe it's proper. These are not questions from this prosecutor.

I think either Agent Chisholm should be testifying to [1606] what's in and reading what is in this transcript, or perhaps Ms. Lee can read the questions and Agent Chisholm can answer.

But, these are not questions being proffered by the prosecutor in this case.

THE COURT: Well, the purpose, I take it, is to simply get the question and answer read back to the jury, without attributing any significance as to who is reading it.

MR. REEVES: That is exactly right, Your Honor.

THE COURT: And without attributing any significance to the tone or anything else. This is simply an attempt to read the transcript back.

And I don't see any objection, so long as the jury understands that they are reading from a transcript, and you're not to infer anything from who's reading what, but you are to listen to the words and not the tone or anything else.

So, I'm going to overrule the objection.

MR. REEVES: Thank you, Your Honor.

(As read by Mr. Reeves and Special Agent Chisholm)

"UNITED STATES SECURITIES AND EXCHANGE COMMISSION, In the Matter of: UNITED SURGICAL PARTNERS,

Case No. SF-03247-A. WITNESS: Bassam Salman. PLACE: Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 900, Chicago Illinois, 60604. DATE: Thursday, October 9, 2008."

(Document displayed)

[1607] "The above entitled matter came on for hearing pursuant to notice at 10:08 a.m. Appearances for the SEC, LLOYD FARNHAM, ESQUIRE. On behalf of the Witness, THOMAS M.

BREEN, ESQUIRE, Breen, Pugh & Associates, Chicago, Illinois.

"Page 4. PROCEEDINGS.

"MR. FARNHAM: We're on the record. It's eight minutes after 10:00 a.m. on October 9, 2008. Whereupon, BASSAM SALMAN was called as a witness, and having been first duly sworn, was examined and testified as follows:

"EXAMINATION BY MR. FARNHAM:

"QUESTION: Could you please state and spell your full name for the record.

"ANSWER: My – my first name is Bassam.

B-A-S-S-A-M. My last name is Salman, S-A-L-M-A-N.

"QUESTION: Do you have a middle name?

"ANSWER: I – I do have a middle name. It's Jacob.

"QUESTION: How do you spell that?

"ANSWER: Could be Jacob. Could either spell it with a Y or a J. Y-A-C-O-U-B or Jacob, so –

"QUESTION: Mr. Salman, what is your home address?

"ANSWER: [Address redacted] Orland Park, Illinois, 60467

* * *

[1618] "ANSWER: Oh, yeah.

"QUESTION: Is Karim Bayyouk also from Jordan?

"ANSWER: No. He's from Palestine.

"QUESTION: And was he born there?

"ANSWER: He was born there. So it could be Israel side. I think it's Palestine, though.

"QUESTION: Is your sister Sawsan married?

"ANSWER: Yes.

"QUESTION: Who's her husband?

"ANSWER: Maher.

"QUESTION: M-A-H-E-R?

"ANSWER: M-A-H-E-R.

"QUESTION: What is the last name?

"ANSWER: Kara, K-A-R-A.

"QUESTION: How long have they been married?

"ANSWER: Few years. I don't know exactly when they got married.

"QUESTION: Do you remember where they got married?

"ANSWER: In Chicago.

"QUESTION: Did you go to the wedding?

"ANSWER: Yes, I did.

"QUESTION: Had you met Maher Kara before that?

"ANSWER: Yes, I did.

"QUESTION: How long before that?

"ANSWER: Probably couple of years before they got [1619] married. And I don't know how long they have been married. It could be three years. I'm not sure, exactly. I don't know the exact date right now.

"QUESTION: I understand. Thank you for the clarification. Before we went off the Record, we were talking about Sawsan, I guess, is her name Sawsan Kara now?

"ANSWER: I think so. I don't know if she kept the last, the Salman name or not.

"QUESTION: Okay. And that's your sister. And you said that you met Maher Kara a couple of years before they got married.

"ANSWER: Correct.

"QUESTION: What does Maher Kara do for a living?

"ANSWER: He's an investment banker.

"QUESTION: Do you know who he works for?

"ANSWER: Who he works for now? At least someone's in this. I think it's Lehman, but I think they – they just recently filed and I don't know where, you know, that's the new company that acquired, so I can't tell you. But I know he was and used to work for Lehman until recently, so.

"QUESTION: Okay. Do you know how long he had worked for Lehman Brothers?

"ANSWER: No. I don't recall exactly. But I would [1620] say a couple of years.

"QUESTION: Do you know who he worked with – worked for before he worked for Lehman Brothers?

"ANSWER: He used to work with Citi, Citigroup or whatever it is, Citibank.

"QUESTION: And you know what he did for them?

"ANSWER: He's an investment banker.

"QUESTION: What does, what does that involve? What's your understanding of what an investment banker does?

"ANSWER: I really don't know the exact, or what his duties or his, you know, what exactly, how he does, what he does, his job.

"QUESTION: Do you know what industry he was working in at Citigroup?

"ANSWER: In the Citigroup? He is, I think, in the biotech.

"QUESTION: And how do you know that?

"ANSWER: How do I know?

"QUESTION: Is it from, did you, do you know that from conversations you had with Maher Kara?

"ANSWER: I know he worked for the, with an investment banker with, you know, biotech division. That's probably from – from whatever, I

mean, I just, that's what, I know he worked with Citigroup, [1621] so it's got to be, you know, through our normal conversation.

"QUESTION: Did you, it could also be conversations with your sister. Did you have conversations with her about it?

"ANSWER: That's the job, I mean, you know and when he came to get married, you know, you ask somebody what you do in a normal conversation. You know, when they first met, or whatever, what you do, what you work, whatever it is. Just came out, I don't recall when, who, where, what about, when about, but that's what I recall.

"QUESTION: Do you know where he worked before he worked at Citigroup?

"ANSWER: I have no idea.

"QUESTION: Had he been working at Citigroup, I guess, when you met him, was he working at Citigroup?

"ANSWER: From what I recall, he was.

"QUESTION: You don't have a recollection of being, him being somewhere else?

"ANSWER: I have no recollection of that. I had said that just I don't remember, to be honest with you.

"QUESTION: So as far as you know, for as long as you've known him, he's either worked at Citigroup or Lehman Brothers?

[1622] "ANSWER: That's what, from what I recall.

"QUESTION: What does your sister, Sawsan, do for a living?

"ANSWER: She's a pediatrician. She's a doctor. She's a housewife now. Just had a new baby.

"QUESTION: Where did she receive her medical training?

"ANSWER: At University of Chicago.

"QUESTION: When did she finish?

"ANSWER: Before she got married. I don't know, I was, I have no, I don't have the exact date. Could be –

"QUESTION: Approximate is fine.

"ANSWER: Approximate could be three years, two and a half years, four years. I don't know. I know she finished, she finished probably before she got married, that's what I'm –

"QUESTION: Before, well, let me ask this. When your sister and Maher Kara got married, where were they living or where did they live after that?

"ANSWER: The question again, please?

"QUESTION: When your sister and Maher Kara got married, where did they live at that time?

"ANSWER: After they got married?

"QUESTION: Yes.

[1623] "ANSWER: They lived in New York.

"QUESTION: And you mentioned that, well, do they now live in San Francisco Bay area?

"ANSWER: No. They live in San Francisco.

"QUESTION: When did they move there?

"ANSWER: I think when his – he got a new job with – with Lehman, so it's been – could be a year and a half, two years. I don't recall.

"QUESTION: And do you know someone named Michael Kara?

"ANSWER: Yes, I do.

"QUESTION: Who is he?

"ANSWER: That's Maher's brother.

"QUESTION: Do you know him by Michael or Mounir?

"ANSWER: I, both.

"QUESTION: Earlier you mentioned something called a 2327 Building Account. Do you recall that?

"ANSWER: I do.

"QUESTION: Can you tell me what that, what that account is?

"ANSWER: It's a checking account that we put money in accounts from rents or line of credits that we have info (sic).

"QUESTION: And when you say we, who do you mean?

"ANSWER: It's a, it's a checking account that we put [1624] the money into. It's in my name and my brother name.

"QUESTION: Is that for some of your property and development work?

"ANSWER: We do it for, I use it for various, you know, ventures and businesses, pay taxes, property tax, repairs.

"QUESTION: Is it connected to any of the business entities that you use to own property?

"ANSWER: No, it's just a checking. It's not a corporation, just a checking account.

"QUESTION: What does the name 2327 Building Account mean?

"ANSWER: We used to have a building, we have a building that's address is 2327, and now – that's how it came about.

"QUESTION: Okay, but now the account is used for other things also?

"ANSWER: Yeah, it, yeah, it was never was used for a particular building or a particular venture, that's all."

BY MR. REEVES:

Q Two more details that I would like to cover with you, Special Agent Chisholm.

A Okay.

Q Yesterday, there was testimony about – in your money flow

* * *

[1656] **Q** Do you recall Mr. Jilwan producing some type of ledger reflecting his trading, joint trading with Michael Kara?

A I do.

Q All right. Do you recall when Michael Kara began his cooperation, him discussing in substance Emile Jilwan?

A Yes.

Q And, in substance, without going into the details, is it fair to say he insisted – he, Michael Kara, insisted that he never told Emile Jilwan that Maher Kara was the source of the information?

A Right.

Q By contrast, when Michael Kara began his cooperation, did he insist that he did disclose Maher Kara as the source of information to other persons?

A Yes.

Q And who did those other persons include?

A Bassam Salman, Joseph Azar, and Nasser Mardini.

Q Have you analyzed the – the proportion of the investments being made by some of the people involved in, for example, Biosite, in the amount of money that they are betting, so to speak, on Biosite, in the relevant period of the securities trading?

A I've done some of that analysis.

Q And do you see any type of disproportion between what some of the other players are investing, as versus people like

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE
HONORABLE EDWARD M. CHEN, JUDGE

UNITED STATES OF AMERICA,	)
Plaintiff,	) NO. CR 11-0625 EMC
vs.	) San Francisco, California
BASSAM YACOUB SALMAN,	) Friday
	) September 27, 2013
Defendant.	) 8:25 a.m.

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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BY: SHAFFY MOEEL, ESQ.

Also Present: SPECIAL AGENT
JEFFREY CHISHOLM

* * *

A In our culture, when you get to know somebody it's with the intention of marriage, not for spending years together without marriage. And so, yes. I think when we both entered into the relationship, it did progress, since there was a connection.

Q Okay. And, when was the first time that your brother, Sam, got to meet Maher, if you recall?

A Maher came out – the first time that I actually met him was the same time that my family met him. It was a few days before my birthday of that year. So, in late April, 2002.

Q And, did there come a time when – when you recall Sam coming to visit Maher's family in California?

A Yes.

Q And when was that?

A That was shortly before Memorial Day of May, 2002. And we all went as a family to visit and get to know his family.

Q Okay. And so tell us who traveled with you, if you – I assume you were there.

A Yes.

Q Okay. Who traveled with you?

A It was myself, Sam, my older brother Ghazy, my sister-in-law Roula. And if I'm recalling correctly, my mother.

Q All right. And where was it that you stayed in California?

[1748] **A** We stayed at the Holiday Inn in Vallejo.

Q And do you remember when you arrived and when you left, by any chance? Or how long you were here in California?

A We were here for approximately three days.

Q Okay. And during that trip, how much time do you think you spent – your family, including Sam – spent with Mounir Kara?

A I recall one specific event, I believe they invited us over for lunch at their home. And there was another time when we all were invited to a restaurant in Napa Valley.

But beyond that, I don't know of any other specific – most of the time we did spend at his parents' home, because the purpose of this the visit was for our family to get to feel comfortable, and know and see whether his family, especially the parents, mom and dad, were a good fit with our family. Because we often viewed that – family holds the same moral values, that ideally it would be a reflection of how Maher would be.

Q So on two occasions, Mounir was present at some of these group events over the three days?

A Yes.

Q And, the next time, if you recall, that Sam got a chance, if you remember, to spend time with Maher's family was when?

A It would have been the following year, at our engagement, in June, 2003.

* * *

[1754] have gotten to see Mounir Kara was when?

A At the wedding.

Q At the wedding?

A Prior to the wedding.

Q All right. And do you recall the dates of the wedding festivities?

A Yes.

Q And they are what dates?

A Of the actual wedding day? Or around that time period?

Q Yes.

A It was July 7, 8 and 9.

Q What year?

A 2005.

Q Thank you. And, at the – at the time of the wedding, had you had any specific discussion with Sam Salman about the nature or extent of Mounir Kara's mental illness?

A No.

MS. SHIFMAN: If I may approach, Your Honor, with some exhibits?

THE COURT: Okay.

BY MS. SHIFMAN:

Q And I have approached, Dr. Kara, with what's been marked as Defendant's Exhibits 601 through 612.

And if you could take a minute to sort of go through those – they're photographs. Go through those photographs and see

* * *

summaries and determine the facts from the underlying evidence.

Charts and summaries in evidence.

Certain charts and summaries have been admitted in evidence. Charts and summaries are only as good as the underlying supporting material. You should, therefore, give them only such weight as you think the underlying material deserves.

Count 1, conspiracy, elements.

The Defendant is charged in Count 1 of the indictment with conspiring to commit securities fraud in violation of Section 371 of Title 18 of the United States Code. In order for the Defendant to be found guilty of that charge, the Government must prove each of the following elements beyond a reasonable doubt:

First, beginning on or about 2004, and ending on or about 2007, there was an agreement between two or more persons to commit at least one crime as charged in the indictment;

Second, the Defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it; and

Third, one of the members of the conspiracy performed at least one overt act between 2004 and 2007 for the purpose of carrying out the conspiracy,

with all of you agreeing on a particular overt act that you find was committed.

[1788] A conspiracy is a kind of criminal partnership – an agreement of two or more persons to commit one or more crimes. The crime of conspiracy is the agreement to do something unlawful; it does not matter whether the crime agreed upon was committed.

For a conspiracy to have existed, it is not necessary that the conspirators made a formal agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they simply met, discussed matters of common interest, acted in similar ways, or perhaps helped one another. You must find that there was a plan to commit at least one of the crimes alleged in the indictment as an object of the conspiracy, with all of you agreeing as to the particular crime which the conspirators agreed to commit.

One becomes a member of a conspiracy by willfully participating in the unlawful plan with the intent to advance or further some object or purpose of the conspiracy, even though the person does not have full knowledge of all the details of the conspiracy. Furthermore, one who willfully joins an existing conspiracy is as responsible for it as the originators. On the other hand, one who has no knowledge of a conspiracy, but happens to act in a way which furthers some object or purpose of the conspiracy, does not thereby become a conspirator. Similarly, a person does not

become a conspirator merely by associating with one or more persons who [1789] are conspirators, nor merely by knowing that a conspiracy exists.

An overt act does not itself have to be unlawful. A lawful act may be an element of a conspiracy if it was done for the purpose of carrying out the conspiracy. The Government is not required to prove that the Defendant personally did one of the overt acts.

Conspiracy – knowledge of and association with other conspirators.

A conspiracy may continue for a long period of time and may include the performance of many transactions. It is not necessary that all members of the conspiracy join it at the same time, and one may become a member of a conspiracy without full knowledge of all the details of the unlawful scheme or the names, identities or locations of all the other members.

Even though a defendant did not directly conspire with other conspirators in the overall scheme, the Defendant has, in effect, agreed to participate in the conspiracy if the Government proves each of the following beyond a reasonable doubt that:

1, the Defendant directly conspired with one or more conspirators to carry out at least one of the objects of the conspiracy;

2. The Defendant knew or had reason to know that other conspirators were involved with those with whom the Defendant [1790] directly conspired; and

3. The Defendant had reason to believe that whatever benefits the Defendant might get from the conspiracy were probably dependent upon the success of the entire venture.

It is not a defense that a person's participation in a conspiracy was minor or for a short period of time.

Count 2 – Counts 2 through 5, securities fraud – elements.

The Defendant is charged in Counts 2 through 5 of the indictment with securities fraud in violation of federal securities law.

1. Count 2 charges the Defendant with securities fraud concerning the purchase of 58 securities of United Surgical Partners International, Inc. on or about November 7, 2006.

2. Count 3 charges the Defendant with securities fraud concerning the purchase of 6,200 securities of United Surgical Partners International, Inc., on or about December 15, 2006.

3. Count 4 charges the Defendant with securities fraud concerning the purchase of 37 securities of Biosite, Incorporated on or about March 23, 2007

4. Count 5 charges the Defendant with securities fraud concerning the purchase of 22 securities of Biosite, Incorporated on or about March 23, 2007

As to each count you are considering, in order for Mr. Salman to be found guilty of this charge, the

Government [1791] must prove each of the following elements beyond a reasonable doubt:

First, the Defendant willfully used a device or scheme to defraud someone or engaged in any act, practice, or course of business that operates or would operate as fraud or deceit upon any person;

Second, the Defendant's acts were undertaken in connection with the purchase of securities, specifically:

1. For Count 2, that the Defendant's acts were undertaken in connection with the purchase of 58 securities of United Surgical Partners International, Inc. on or about November 7, 2006.

2. For Count 3, that the Defendant's acts were undertaken in connection with the purchase of 620 securities in United Surgical Partners International, Inc. on or about December 15. 2006.

And 3, Count 4, the Defendant's acts were undertaken in connection with the purchase of 37 securities of Biosite, Incorporated on or about March 23, 2007.

4. For Count 5, that the Defendant's acts were undertaken in connection with the purchase of 22 securities of Biosite, Incorporated on or about March 23, 2007.

Third, the Defendant directly or indirectly used an instrumentality of interstate commerce or any facility of any national securities exchange in connection with these acts; [1792] and

Fourth, the Defendant acted knowingly.

"Willfully" means intentionally undertaking an act for the wrongful purpose of defrauding or deceiving someone. Acting willfully does not require that the Defendant know that the conduct was unlawful. You may consider evidence of the Defendant's words, acts, omissions – or omissions, along with all the other evidence, in deciding whether the Defendant acted willfully.

An act is done knowingly if the Defendant is aware of the act, and did not act through ignorance, mistake or accident. The Government is not required to prove that the Defendant knew that his acts were unlawful. You may consider evidence of the Defendant's words, acts, or omissions, along with all the other evidence, in deciding whether the Defendant acted knowingly.

It is not necessary that the Defendant made a profit or that anyone actually suffered a loss.

Counts 2 through 5, "device or scheme to defraud" defined. A "device or scheme to defraud" is merely a plan for the accomplishment of any fraudulent objective.

"Fraud" is a general term that embraces all efforts and means that individuals devise to take advantage of others.

The specific "device or scheme to defraud" or "act, practice, or course of business" that the Government

alleges [1793] that the Defendant employed in connection with Counts 2 through 5 of the indictment is known as "insider trading."

An "insider" is one who comes into possession of material, confidential, non-public information about a security by virtue of a relationship that involves trust and confidence. If a person has such "inside information" and his position of trust or confidence prevents him from disclosing that information, the law forbids him from buying or selling the securities in question or giving that information to others so that they can trade in such securities on the basis of that information.

The law also prohibits a person who's not actually an insider from trading in securities based on material, nonpublic information, if the person knows that the material, nonpublic information was intended to be kept confidential and knows that the information was disclosed in breach of a duty of trust or confidence and knows that the insider personally benefited in some way, directly or indirectly, from the disclosure of the allegedly inside information.

Counts 2 through 5 allege that the Defendant engaged in insider trading as a "tippee." That is, based on the allegations that the Defendant received material non-public information and wrongfully used it for his own benefit, when he knew that the information had been disclosed in violation of a duty of trust and confidence.

[1794] A person who receives material, non-public information engages in an act of fraud or deceit under the Federal securities laws if he buys or sells securities based on material, nonpublic information that he knows was disclosed by another person in breach after duty of trust and confidence, and knows that the insider personally benefited in some way, directly or indirectly, from the disclosure of the allegedly inside information. I caution you, however, that trading on information that does not originate from an insider is not illegal.

In order to find that the Government has established the first element of securities fraud – namely that the Defendant used a device or scheme to defraud or engage in any act, practice, or course of business that operates or would operate as fraud or deceit upon any person – the Government must prove each of the following beyond a reasonable doubt as to each count:

1. That Maher Kara, who the indictment alleges was an "insider" or the "tipper" had a fiduciary duty or other relationship of trust and confidence with Citigroup or Citigroup's clients;

2. That Maher Kara intentionally breached that duty of trust and confidence by disclosing confidential, material, non-public information to Mounir "Michael" Kara, which information was subsequently disclosed to the Defendant;

[1795] 3. That Maher Kara personally benefited in some way, directly or indirectly, from the disclosure

of the confidential material, non-public information to Mounir "Michael" Kara;

4. That the Defendant knew that the information he obtained had been disclosed in breach of a duty;

5. That the Defendant used the material, non-public information he received to purchase or sell a security or tip for his own benefit; and

6. That the Defendant knew that Maher Kara personally benefited in some way, directly or indirectly, from the disclosure of the allegedly inside information to Mounir "Michael" Kara.

Knowledge of the breach by tipper.

As to the Defendant's knowledge that the insider has breached the insider's duty of trust and confidentiality in return for some actual or anticipated benefit, it is not necessary that the Defendant know the specific confidentiality rules of a given company or the specific benefit given or anticipated by the insider in return for disclosure of inside information; rather, it is sufficient that the Defendant had a general understanding that the insider was improperly disclosing inside information for personal benefit.

Counts 2 through 5, deliberate ignorance.

You may find that the Defendant acted knowingly if you [1796] find beyond a reasonable doubt that the Defendant:

1. Was aware of a high probability that he obtained information that had been disclosed in violation of a duty of trust and confidence, and

2. Deliberately avoided learning the truth.

You may not find such knowledge, however, if you find that the Defendant actually believed that the information he obtained was not disclosed in violation of a duty of trust and confidence, or if you find that the Defendant was simply careless or reckless.

"Material, non-public information" defined.

Information is material if there is a substantial likelihood that a reasonable investor would consider it important in making the decision to purchase or sell securities.

Non-public information is information which is not generally available to the public through such sources as press releases, trade publications, analyst reports, newspapers, magazines, television, radio, websites, Internet chatrooms, online message boards or other publicly available sources.

Information is considered non-public for purposes of insider trading until such information has been effectively disseminated in a manner sufficient to insure its availability to the investing public.

[1797] Counts 2 through 5, "Benefit" defined.

Personal benefit includes not only monetary gain, such as a cut of the take or a gratuity from the tippee, but also a reputational benefit or the benefit one

would obtain from simply making a gift of confidential information to a trading relative or friend. The benefit does not need to be financial or tangible in nature; it could include, for example, maintaining a useful networking contact, improving the tipper's reputation, obtaining future financial benefits, or making a gift of confidential information to a trading relative or friend.

"Use of inside information" defined.

A person uses material, nonpublic information in connection with a securities purchase if that information is a substantial factor in his decision to purchase the security.

"In connection with," defined.

"In connection with" means that there was some nexus or relationship between the allegedly fraudulent conduct and the purchase of the securities.

"Instrumentality of interstate commerce" defined.

An instrumentality of interstate commerce includes the postal mails, e-mails, telephone, telegraph, telefax, interstate highway system, Internet or similar methods of communication and travel from one state to another within the United States.

[1798] Aiding and abetting. A defendant may be found guilty of securities fraud, even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To

prove a defendant guilty of aiding and abetting, the Government must prove beyond a reasonable doubt:

First, securities fraud was committed by someone;

Second, the Defendant knowingly and intentionally aided, counseled, commanded, induced or procured that person to commit each element of securities fraud; and

Third, the Defendant acted before the crime was completed.

It is not enough that the Defendant merely associated with the person committing the crime, or unknowingly or unintentionally did things that were helpful to that person, or was present at the scene of the crime. The evidence must show beyond a reasonable doubt that the Defendant acted with the knowledge and intention of helping that person commit securities fraud.

The Government is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

All right. So, at this point, the next stage will be the presentation of closing arguments by the parties. But, we are now past 10:00 so we will go ahead and take a break, 15-minute break, and then resume with the Government's closing argument.

[1799] So, we'll see you in 15 minutes.

THE CLERK: All rise for the jury.

(Jury excused)

(The following proceedings were held outside of the presence of the Jury)

MS. SHIFMAN: Just very quickly, just to preserve the Record, we just move at the conclusion of the defense case again to dismiss the charges, to preserve the Record.

THE COURT: All right. So noted.

MR. REEVES: And one little thing, I think, Your Honor, when you read Jury Instruction No. 29, in the last sentence of the first paragraph, this is special circumstances, I heard the Court insert a "not" where there isn't a "not" there.

THE COURT: Oh, okay.

MS. SHIFMAN: I heard it as well.

THE COURT: Okay.

MR. REEVES: And the remedy might be simply rereading that sentence.

THE COURT: Yeah. I figured out of those 4,000 words, I probably screwed up somewhere. But I will correct that.

MR. REEVES: Okay. Thank you, Your Honor.

THE COURT: Thank you.

(Recess taken from 10:10 to 10:23 a.m.)

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[1806] [CLOSING ARGUMENT/DOWLING]

later on that week. We're not that far from that Monday when he learned about it. On the 22nd he calls his brother. His brother wants some information.

He had already given his brother information on USPI, don't forget. That was before. He had already given up the ghostGovernment with USPI, said he knew, when he gave information to his brother on USPI, that his brother was going to trade on it. And trade on it, he did.

Move forward to Biosite. He gives him more information. He told you that. He sat on that stand and he told you. He was conflicted about it. He had a complicated relationship with his brother, clearly, but they loved one another. You saw that, you saw that in the wedding video. They loved one another.

He asked him for information, and he gave it. And you know what? He told you this: He knew his brother was going to trade on it. And his brother traded on it.

And you know what else his brother did? His brother called the three people that he told you in this courtroom he told over that three-year time period, 2004 to 2007, he told three people about the source of the information (Indicating). Maher. Three people he told.

Who did he tell? You probably remember. One of them is right here in the courtroom (Indicating), Bassam Salman. He told Bassam Salman that the information that he had, that

* * *

[1820] thing. That's how options are traded on national securities exchanges.

And the fourth element, that Defendant acted knowingly; that this wasn't a mistake, it wasn't an accident; that he acted knowingly.

And the Government is not required to prove that the Defendant knew that this was illegal, just that he acted knowingly. And "knowingly" includes turning a blind eye.

Let's turn back to the first element and look at the first three of the six subparts to this element.

(Document displayed)

First, that Maher Kara, "insider," had a fiduciary duty with Citigroup. This isn't in contention. Maher Kara was on the stand. He told you about those fiduciary duties. We looked through the code of conduct. We looked through the manuals. He had a fiduciary duty. That was clear. And he told you that he violated that fiduciary duty.

Second, that Maher Kara intentionally breached that duty by disclosing material, nonpublic information to Michael Kara, which information was

subsequently disclosed to the Defendant. That's not in dispute either.

THE COURT: You might want to turn that mic towards you.

(Request complied with by Counsel)

THE COURT: Thank you.

[1821] **MS. DOWLING:** Maher testified to the fact that he provided material, non-public information. He testified to that fact, he provided it to his brother. And that same information was given by Michael to the Defendant, Bassam Salman.

Third element, that Maher Kara personally benefited in some way, directly or indirectly, from the disclosure of the confidential information to Michael Kara.

Again, they are brothers. You saw their relationship, saw the toast at the wedding. This was for mutual benefit. And Maher Kara told you that, told you that he benefited, told you that his brother benefited.

Let's turn now to Elements 4, 5, and 6. I'm going to start with No. 6.

(Document displayed)

MS. DOWLING: That the Defendant knew that Maher Kara personally benefited in some way, directly or indirectly, from the disclosure of the inside information to Michael Kara.

Again, it was no secret that Maher and Michael were brothers. The Defendant knew that, Defendant knew the relationship. And as the Judge instructed you, giving the gift of information to a trading relative, that's part of the equation.

Let's look at No. 4, that the Defendant knew that the information he obtained had been disclosed in breach of a

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